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Vol. XIII

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THE CONCEPT OF THE PUBLIC

BY CARROLL D. CLARK

University of Kansas

Social research and social theory are increasingly obliged to take account of that vague and amorphous entity, the public. At one stage or another every social problem has a way of involving the problem of public opinion. It is perhaps not too much to say that one reason we have social problems, or at least recognize them as such, is due to this same phenomenon of public opinion.

In spite of their growing importance in affairs, the public and public opinion as concepts for group analysis remain wrapped in a haze of confusion and doubt. Their definitions and interpretations seem likely to rival in variety the views of political theorists as to the nature of the state.¹ This situation became acutely apparent in 1924 when a Round Table on Political Statistics of the National Conference on the Science of Politics found it impossible to agree on a standardized meaning, and concluded it best "to avoid use of the term public opinion, if possible." In spite of this recommended abstinence, the question of what the public is has continued to dog the steps of the political scientist, and there has been no perceptible diminution in the employment of the concept.² The public

¹The various notions of what constitutes public opinion have been summarized by several writers. The most analytical review of these notions, past and present, is that by Robert C. Binkley, "The Concept of Public Opinion in the Social Sciences," *Social Forces*, VI, 389-396. See also L. J. Carr, "Public Opinion as a Dynamic Concept," *Sociology and Social Research*, XIII (September-October, 1928), 18-29. Definitions and analyses of public opinion inevitably raise the question of what is a public, but many writers have evidently preferred not to answer a question so likely to be given a metaphysical construction.

²This stubborn recurrence of the question of what a public is indicates that the political scientist, like the sociologist, is now trying to think of his objects as things rather than events. Traditionally political science has endeavored, like history, to present "an undistorted picture of a concrete reality in which exceptions are apparently the only rule and in which events are

may be, as Walter Lippmann has concluded, only a phantom, but it is one that continually haunts discussions of social and political problems.

However, some progress has recently been made in the clarification of the public. One of the noteworthy trends of current work in sociology has been a reëxamination of basic concepts in an effort to develop a more coherent frame of reference, and it was natural that public opinion should receive some critical attention. The chief recent contribution is a behavioristic view of the process of public opinion set forth by George A. Lunberg.³ He finds the principal sources for existing confusion in the meaning of the term "public opinion" to lie in the subjective vagueness lent to the term "opinion" by the old individualistic psychology and the recrudescence of the realist-nominalist controversy with respect to the reality of group concepts, such as "social mind," the "crowd," and the "public." He defends, most ably, the reality of these social organisms as functional units and puts forward a behavioristic definition of public opinion.

"It is therefore just as permissible," he concludes, "to speak of public opinion as of individual opinion, and as permissible to speak of the thinking, feeling, and acting of a group as it is to attribute those phenomena to individuals. In both cases, those words merely indicate a deliberative technique through which the unit referred to achieves a tentative adjustment."⁴

With the "group fallacy" bogey at least temporarily out of the way and a rough but objective definition of public opinion at hand, we are in a better position to describe the phenomena falling in this field of collective behavior in generic and mutually comprehensible terms. The profile of the public, however, is not yet clear. How are we to distinguish this unit whose "tentative deliberative adjustments" constitute public opinion? What, fundamentally, are its characteristics, and how does it come into existence?

unique." When such objects as the public and public opinion are regarded as things having a nature of their own and therefore a natural history, an effort may be made to describe them in naturalistic, rather than in historical and normative, terms. See W. Y. Elliott, "The Possibility of a Science of Politics: With Special Attention to Methods Suggested by William B. Munro and George E. G. Catlin," and the reply of Professor Catlin, in *Methods in Social Science*, edited by Stuart A. Rice, pp. 70-94, Chicago, 1931.

³"Public Opinion from a Behavioristic Viewpoint," *American Journal of Sociology*, XXXVI (November, 1930), 387-405.

⁴*Ibid.*, p. 396.

The position to be here maintained is that public opinion is most fruitfully conceived from the standpoint of collective action. From this standpoint not just the formal contest of views and registering of ballot-box decisions constitute public opinion, but the whole series of reactions involved in collective deliberation. Public opinion then becomes a form of group thinking, and the process bears more than an analogous relation to the individual's "complete act of thought."

At the inception of the public-opinion process, as in the case of the individual thought process, we have interruption of routine action and the disturbance of the preëxisting equilibrium. Tension grows as responses are held up and an effort made to define the situation. Group attention is more or less sharply focalized on the issue. All of these phases have their counterpart in the individual act of thought. The group discussion which now ensues corresponds to the "inner forum" by means of which the individual rehearses tentatively alternative lines of action, weighing them with a view to probable consequences. The rational or deliberative aspect of public opinion as distinguished from crowd behavior, and of individual thought as distinguished from impulse, lies in both cases in the controlled quality of the action—the checking or delaying of overt responses until incipient tendencies or programs of action compete, modify each other, and eventually take shape in a judgment or line of conduct that has, to some degree, been measured with respect to projected ends.

If the foregoing statement be in the main acceptable, what indications does it afford concerning the social situation in which the public can arise? Evidently it implies a situation where differences can be talked out instead of fought out, and where a common interest transcends, or at least permeates, conflicting interests in such manner as to make possible their mediation in a common motive or judgment. For a group with unified attitudes and a definitely organized action-structure to function in this manner would present no problem, but a public is characterized by its spontaneity, diversity of attitude, and lack of a formal action-pattern. How are the individuals composing it to find a common motive and to function as an organized whole?

Park and Burgess have already given an indication as to how this is accomplished. "A public is, in fact, organized on the basis of a universe of discourse, and within the limits of this universe of discourse, language, statements of fact, news, will have, for all practical purposes, the same meanings. It is this

circle of mutual influence within which there is a universe of discourse that defines the limits of the public."⁵ A universe of discourse arises spontaneously in a primary society as a result of directly shared experiences and a traditional system of collective representations. In a secondary society, however, it depends upon more complex factors—upon organization of interests and complicated indirect methods of communication. It is the latter type of universe of discourse that underlies the public.

But there must be more than a shared interest and common understanding before the public appears on the social horizon. The simple, static society which has both these attributes, does not, typically, function as a public. Nor is it because conflicts in purpose do not arise, nor because there are no opinions. In this connection the distinction drawn by Professor Park between the mores and public opinion has marked significance.⁶ Opinion does not become public opinion, in the sense we have given that term, so long as it merely expresses a judgment rooted in the mores. Public opinion involves "live" issues; the mores are residues of long since threshed out and, for the time being, settled. Where standards are absolute and values are personal, as in the static primary society, there may be controversy but not deliberation; gossip, but not, in the fullest sense, discussion. For, while views may clash in interpreting and applying the existing rules of behavior to specific cases, the rules themselves remain unchallenged. Before a group can become a public there must be a confrontation of divergent attitudes involving the tacit or expressed rules that set the pattern of behavior and fix judgment of consequences.

If this distinction between public opinion and the mores be allowed, we need to employ a separate term to denote the processes of group opinion where judgments are based on the mores alone. The term "social opinion," as applied by Thomas and Znaniecki to the primary-group controls of gossip, social appreciation, and community-wide feeling, seems satisfactory for this purpose. Social opinion is "the common factor which holds the community together, besides and above all the particularities which unify various parts of the community, individuals, or smaller groups with each other, and it is the only indispensable factor."⁷ In the

⁵Park, Robert E., and Burgess, Ernest W., *Introduction to the Science of Sociology*, p. 254.

⁶*Ibid.*, pp. 831-833.

⁷*The Polish Peasant in Europe and America* (first edition), I, 144-45.

mechanisms of its operation, three original elements, according to the authors, are to be noted: an extraordinary occurrence that focuses attention, the development of an identical attitude toward this phenomenon, and the awareness of this identity.

In the description of its workings in Polish primary-group society, the characteristics that mark off social opinion from public opinion are quite clearly distinguishable. The attitudes toward the attention-compelling occurrence are spontaneously assumed in accordance with tradition as preserved in the mores and customary behavior-patterns, and while gossip and persuasion are necessary to reconcile divergent interpretations based on personal diversities of experience or interest, nevertheless the generalized traditional attitude and its correlative behavior-pattern are already present to be applied to the given class of occurrences, and remain essentially unmodified throughout the process. The estimates and decisions made in social opinion are personal and absolute; the valuations that serve as criteria for defining the occurrence have their origin in the circumscribed, though ancient, heritage of the group. Social control based on the mores assumes unanimity. Civil law and legislation cannot develop until divergent interests, attitudes and points of view are tolerated. Hence, as Professor Park has pointed out, in a primitive, stable society all law is sacred and civil law does not exist. Even in so complex a society as China, as long as custom holds its fixed and sacred character, civil law does not make a beginning. Public opinion operates as an indispensable factor in civil law; in criminal law, it is social opinion that operates.

In the clash of primary-group attitudes—as in the conflict of groups of kin or opposition of family interests—no elements of fact or interpretation that possess other than a traditional connotation enter into the formation of social opinion concerning the controversy. That is why we may say that discussion does not enter as a creative factor into the opinion arrived at. Social opinion is essentially the process of bringing predetermined attitudes to fit novel but classifiable cases.

When the social organization is widened and complicated by economic and cultural differentiation that entail incompatible schemes of group behavior, issues cannot always be met by the application of uniform traditional controls. It is at this juncture that publics come into existence and public opinion commences to function.

The market place may be taken as the type of situation conducive to the rise of the public. As the center for the exchange of economic goods and services, that it, of values that can be treated impersonally, it demanded adjustments based not on the irrational control of the mores but upon fact and news. Commodity values, credit, and enterprise are determined by the current situation rather than by tradition, and for this reason the market place became more than a mere trading institution. It served as a news center, a focal point for intelligence, and a station for the mobilization of novel ideas.⁸

In short, when current events rather than arbitrary standards became the controlling factor in directing activities, and when interests began to be organized functionally rather than traditionally, the public was born. Modern industrial civilization may, for present purposes, be regarded as a vast extension of the market place—a scheme of economic order that pushes its frontiers ever further into regions where the social organization is and for ages has been static and traditional. Wherever it has penetrated, it has profoundly modified the systems of social and political organization. To carry out the division of labor and organization of functional activities that are its inevitable accompaniments, special agencies of communication have developed as coördinating mechanisms.⁹ All indirect means of communication, but especially the newspaper, serve to facilitate the collective acts of special-interest groups. Informational news having a relatively objective factual content, as distinct from human-interest news of emotional appeal, has developed in most fields of organized special interest, and helps to create in each a universe of discourse.

Thus, the market place in its broader phase tends to take on a "soviet" character by virtue of the functional organization of interests and special universes of discourse. Each of these "soviet" organizations—banking, the bar association, welfare work, the real estate board, etc.,—carries with it a wider following than the "members" or active participants, a following that is

⁸The development of Lloyd's Coffee House as a news center and the center of the marine insurance business, and later into a great institution combining both functions, throws light on how this may come about. The French fairs were said to be centers for news and the dissemination of political ideas, particularly those in the south, where Italian traders brought a spirit of republicanism and news from the great ports. Selfridge, H. G., *The Romance of Commerce*, p. 124.

⁹See Victor von Klarwill, editor, *The Függer News-letters*, Translated, New York, 1924.

indirectly, if not directly, concerned with the activities and programs falling in the special field, and possessing more than a lay knowledge of these operations. The whole body of active participants and "interested" supporters or followers share in an ongoing collective act and become a public with reference to the special undertakings in the given field. When the indirect consequences of these undertakings affect other groups or society at large and these consequences are perceived and reacted to by the latter, a still wider public comes into being.

In other words, there are special as well as general publics, and failure to recognize this fact prevents a full appreciation of the functions of public opinion. Walter Lippmann's lucid analysis of the functions of the public clears away the misconception of a single public omniscient to deal with the manifold problems of democracy, but when he limits the actual publics to the bystanders, as distinct from the "insiders," or active participants in a controversial affair, he restricts unduly the public's scope and reduces to a shadow its functions. The "insiders," in most cases, are the special publics or their representatives. When interests ordinarily left in their hands come into collision with other interests or produce undesired consequences affecting a wider social body, the general public, of which they remain an active part, begins to function.

Special publics, with "soviet" organizations at their core, have developed as a phase of the secularization of society that has gone *pari passu* with the extension of the market place, or, as most would put it, with the growth of modern civilization. To the extent that group behavior is secularized, it comes under the control of objectively determined fact and rationally predicted consequences instead of tradition, magic, or irrational sentiment. The interests defining a special public are to some degree technical and participation in its activities requires a certain amount of special knowledge. The universe of discourse of such a public, as a natural consequence, takes on a somewhat esoteric character. The activities, as well as the vocabularies, of the publics of *belles lettres*, of banking and finance, of racing or organized baseball, of welfare movements and reform, and so on, are likely to be rather mysterious to the uninitiated, while the operations and discourse of science appear not infrequently to be downright magical.

Special periodicals, technical journals, the departmentalized sections of the daily press, and other communicational mediums

cater to the interests of "soviet" groups and their publics, centering attention on common objects and coordinating activities to common ends. News in such fields tends to be stripped of sensational and symbolic qualities, and to approach the accuracy of scientific fact. The degree of secularization of a public may be measured more or less reliably by the objectivity of its news.

The competence of a public to deal with its problems is a variable depending upon such other variables as its equipment of special knowledge, the efficiency of the communicative devices that supply it with news and facts, and the effectiveness of its organization. The special public, within its own field, has special competence. All publics, it is true, think largely in terms of stereotypes, but the latter are indispensable factors in thought of whatever sort. Whether they falsify the environment or effectively simplify it for practical action depends upon how they are built up, checked, and utilized. It is not the purpose here to minimize the significance of irrational factors in public opinion, but to insist that the range and influence of such factors rest not upon their inherent nature or the inherent limitations of the public so much as upon the variables of the public's organization and functioning.

There is, no doubt, a sharp contrast between the competence of the special public dealing with issues in its domain and the general public as it functions through the feudal set-up of party politics. The news and the data affecting the deliberative adjustments of the latter, unlike the former, are largely selected for their power as emotional stimuli or their congruity with prevailing stereotypes, with little regard for their accuracy or relevance as facts. Mr. Lippmann is not far wrong in restricting the competence of such a public to a few crude discernments which enable it to throw its force behind one or the other of the contestants.¹⁰ But it should be remarked that the general public in its political capacity is functioning in a region that is still largely magical, traditional, and unsecularized. Encompassing the most divergent experiences that our highly mobile and heterogeneous social life has evolved, this public possesses scant means of translating such experiences into generally intelligible purposes and meanings. As a consequence, its universe of discourse (if indeed it may be said to have one) is fragile and tenuous, its common motives are transitory and ephemeral, and its focus of attention is as wayward and evanescent as the front-page content of the newspapers it

¹⁰*The Phantom Public*, pp. 77 ff.

reads. At the same time, the problems with which it has to cope are notoriously complicated and profound. This is the state of affairs that has brought many protagonists of democracy to the verge of despair.

The performance of the general public, after all, partakes more nearly of the nature of social opinion, as heretofore described, than of public opinion. Its fugitive attention is largely preoccupied with scandals, trivia, and sensational occurrences. One may say without serious exaggeration that its only universe of discourse is in the news of mass appeal. But if such news is considered not from the standpoint of taste or esthetics but from that of social interaction, it takes on a new significance. For it becomes unmistakable that the human-interest and sensational material on which is centered so largely the public's attention presents exactly those "extraordinary occurrences" that set in motion the processes of social opinion and provide data for the formation of moral judgments. The communications of the general public, then, turn out to be largely concerned with getting a basis for a larger common understanding, with funding diverse experiences into intelligible wholes,—in short, with establishing a wider consensus and a moral order.

The growth of social competence on the part of this wider public will proceed only as fast as interests are rationalized. This implies more than the free flow of facts which, according to some theories, is all that is necessary to set in motion an enlightened public opinion. Facts get their meaning from their relationships within a universe of discourse and their effective utilization depends upon the adequacy of this basis for interpretation as well as upon their being given free play in reorganizing stereotypes and the ongoing course of action.¹¹ The wider public not only is deficient in a background of common meanings that might enable it to employ facts in defining and interpreting situations, but it lacks a technique for organizing the experiences of its diverse elements, or for integrating the productive but dispersive activities of interest-groups launched on separate and often conflicting careers.

The rationalization and organization of specific interests, however, have the effect of relieving the wider public of all but the most general responsibilities in the fields involved.¹² As affairs

¹¹Dewey, John, *The Public and Its Problems*, Chap. 1.

¹²The problem of restraining the self-aggrandizement of these "special interests" is, of course, a major responsibility that rests on the general public.

long private, like the state of one's health or the treatment of one's children, are made matters of public concern, they present at first issues with which the general public is poorly prepared to deal. In time, however, special organizations and "soviet" groups spring up and assume the major responsibilities in each field. These "voluntary associations" are the core of special publics, but at critical junctures they appeal to the general public, often in the capacity of propaganda agencies.

In conclusion, it would appear that the basic functions of the general public will, as time goes on and the functional organization of activities proceeds, be restricted increasingly to settlement of broad matters of policy, such as those dealt with by the board of directors of a very large and far-flung business or philanthropic institution. The simile has its disadvantages but it at least suggests that the "meddling" of the general public in matters requiring technical knowledge is likely to have consequences similar to those produced by overzealous boards. With special publics assuming the chief responsibility in their own fields, the general public will be left the problem of integrating more or less unrelated specialisms and of defining the common objectives of the Great Society. This appears to be its unescapable burden.

STATE SUPERVISION AND LOCAL ADMINISTRATIVE STANDARDS

BY LANE W. LANCASTER

University of Nebraska

The past few years have been prolific in official and unofficial studies of the woes and shortcomings of local government and administration in the United States, and it is scarcely too much to say that we have at hand the materials for a thoroughgoing reconstruction if doctor and patient could but agree upon the proper remedy. The problem of the proper relation of central and local government is germinal to traditional democratic doctrine and for that reason deserves perennial attention. It is also evident that the securing of efficiency in local administration lies, in part, in the direction of finding a workable solution of this problem of relationship.

About the strictly legal aspects of the question there can no longer be doubt. The solemn pronouncements of generations of owl judges have dinned into our ears with the monotony of an incantation the doctrine that municipal corporations are creatures of the state which, having created them, may alter or abolish them at its sovereign will. Such a sweep of legal power obviously includes within its reach every type of control. It permits the use of any and every legal device of regulation and is restrained in its operation only by the state and Federal constitutions and by the inherent limitations of time and strength to which even sovereign states are subject. While solemn enough in all conscience, these expressions of the law have never seemed to the writer to be either very alarming nor to offer a very fruitful approach to the central problem as to the proper relationship between the state and its local areas. It is, however, the legal basis upon which we have proceeded, and it is worth while to examine how it has worked itself out in actual administration.

Broadly speaking, we have dealt with our local governments in two ways. In the first place, we have attempted what the books call "legislative supervision." This consists essentially in conferring powers and liabilities upon local governments, or specifically upon officials, and relying upon what is vaguely known as responsibility to the law for the enforcement of state policy as declared in the statutes. In practice this has resulted in what might be called government by lawsuit. Stated bluntly this "system" has

meant that the state puts upon each taxpayer or other party in interest the burden of calling to account each official about to perform an unpopular or legally dubious act. Such a scheme, of course, affords no guarantee that the standard imposed by the state will be followed locally. Under American conditions it is often true that a policy that can command a majority in the state legislature represents at best only a vague aspiration of the membership or is the price exacted in return for support of a more immediately practicable proposal. Legislative supervision under such circumstances means defeat in detail of the state policy in communities where opinion is indifferent to the standard established by the statute. One is indeed tempted to believe that the ultimate justification for local self-government lies in this opportunity for informal nullification. In any event, from the point of view of realizing adequate administrative standards, the development under the regime of legislative supervision has demonstrated the essential sterility of the notion of state supremacy, however much we may be disposed to grant it a certain theoretical validity as a merely legal principle.

A century of experimentation with legislative supervision of local affairs was followed by an interlude of some fifty years under constitutional home rule. Heralded as a specific for legislative tampering and rural domination, the results of home rule from the point of view of sound administration must be regarded as distinctly disappointing.¹ While it may have operated to free cities from outstanding political evils, its net effect in other respects seems to have been to transfer from the legislature to the courts the task of delimiting local powers—a task in which they do not appear to have been particularly successful. Though they have probably brought to the problem better brains than the legislature afforded, they have been unable to contrive a formula of practical value.²

Political science, fully as much as other disciplines, may be said to have fashions. Legislative supervision having been discredited and home rule having been subject to question, those who

¹While it is perhaps correct to say that home rule was not suggested as a means of improving administration, nevertheless one argument advanced in its favor was that cities could better handle local problems since local officials knew more about such problems.

²See Charles W. Tooke, "The Status of the Municipal Corporation in American Law," XVI *Minn. Law Rev.* 359-360 (March, 1932). The whole article is well worth reading.

would improve public administration have of recent years pinned their faith to what has come to be called "administrative supervision." The notion is simplicity itself. Let the state set the standards of performance in such fields as clearly involve general as distinct from local interests, and then compel compliance with these standards by a system of inspection, reports, withholding of state aid, and perhaps even removal of local officials. Such a scheme has the theoretic merit of flexibility and comparative ease in operation and is compatible with a large amount of what we call "home rule." It may be regarded as a device produced by the impact of technology upon government. It is superficially consistent with our social and economic order, resting as that order does, upon the sciences, since it transfers the task of enforcing state-adopted standards from the hands of inexpert legislators to those who are assumed to have special competence, and to be in a position to take a professional and impersonal attitude towards their official duties. Since there exists, or appears to exist, such a pat consistency between the device and the social environment in which it is to operate, administrative supervision is favored no doubt by the great majority of academic students of administration. Such being the case, it deserves a somewhat extended examination.³

One notion that is implicit in all suggestions for administrative supervision over local government is that the state can somehow furnish more competent talent than is likely to be secured by localities and that, therefore, state standards will be higher than would otherwise be the case. Is this true? The assumption may perhaps be tested by asking how many state governments are so arranged as to create and strengthen traditions of permanence and professionalism among their employees. The answer is disappointing. In only nine of the forty-eight states is there even on paper a merit system, and one suspects that in some of these states sound principles are disregarded quite as often as they are applied and that in few states is the merit system applied in the choice of men to fill the key positions. Is this not equivalent to saying that the state service is the product of the same forces that operate in filling posts in the local service? Until we have somehow developed an intelligent understanding and appreciation

³The statutory basis for such administrative supervision as we have is set forth very fully in Schuyler Wallace's *State Administrative Supervision over Cities in the United States*.

of competent administrative workmanship in our state governments, it seems rather naive to expect any enforcement of sound practices on the part of local authorities.⁴

It is further assumed that the state, being a larger unit, its officials will be less beholden to private and local interests and will therefore be able to assume a more impersonal attitude in the enforcement of state policy. To a limited extent, this may be true. But it is very easy to lay too great stress upon it. Few states are so large as to escape the danger of having the official policy warped and twisted by a thousand local compromises, for the legal structure of state government is in fact at the center of myriad personal and local influences. Whatever law and theory may say, every state officer, appointive or elective, in most American commonwealths, is himself the product of the same pushes and pressures that operate to exalt or degrade the standards of local administration. Even on the scale of a large state, politics is, in essence, an intimately personal matter. The average state central committee is essentially an aggregation of county and community bosses and leaders; the typical legislator is a local mogul who has served his turn in various local posts and quite often continues a member of the "court house gang" at home; while the device of the "balanced ticket," not entirely outmoded by the direct primary, points to the fundamental basis of state politics and administration. It is, of course, possible that service in a state legislature may serve in time to widen the mental horizon of the member and make him familiar with the notion of the *general* welfare. The short terms of office and the use of small legislative districts, however, tend to emphasize dependence upon local influences and attitudes. Mere widening of the area for the choice of officials is no guarantee of equal and impartial enforcement of the law. The crude notions of the electorate will work their way into the central administration through the machinery of the party. Indeed, in a representative democracy, that is what politicians are for. In short, the state is not a different thing from its component parts; in its performance of those functions of

⁴Cf. Raymond M. Gallagher, "Workers for County Welfare Systems in Non-metropolitan Areas," in *Social Service Review*, V, 252 (Aug., 1931): "... the Illinois Civil Service Commission has not as yet shown sufficient intelligence, honesty, or courage during the past ten years to warrant putting further responsibilities in its hands. . . It has seldom shown any comprehension of . . . sound methods in the technique of examination and classification."

interest to localities, it tends, in fact, to accept as a standard the least common denominator of local performance.⁵ In an area with the variety of interests, population, background, and traditions presented by the typical American state, it is an obvious impossibility to get general agreement on anything more than a very modest standard of administrative competency. Such standards as are locally understood and supported will, of necessity, set the pace to be followed by state administrators and it is futile, at any rate within the forms of democracy, to attempt to enforce compliance with higher ones. The theories of political scientists and the dicta of judges must reckon in the end with the realities of a gossipy local democracy, intent upon keeping its affairs in its own hands and very largely indifferent to such recondite matters as efficiency, unit costs and standardization.

Examination will show that the root of our difficulty in enforcing higher standards in local administration lies in the influence subtly exerted by the legal concept of the supremacy of the state over its local subdivisions. The legal formula is a sterile one and its effect has been to set the state and the locality in distinct spheres. But the problems for the solution of which the state assumes final responsibility are units. The literal interpretation of state supremacy on one hand, and the stubborn insistence on the local control of policy on the other, have produced a state of affairs out of which sound administration can be secured only by the use of a new technique for which the strict application of the legal formula leaves no room. It gets us nowhere, for example, to repeat that education, or public health, or taxation is a matter of state concern, when observation tells us that under some circumstances the state, as a matter of fact, abdicates in the actual conduct of the function. It is easy, as a matter of theory, to demonstrate that the state *has* an interest in an increasing number of functions hitherto largely local in their implications

⁵In New Jersey, auditors of municipal accounts are retained by local authorities from lists of accountants licensed by the State Commissioner of Municipal Accounts. The following comment is illuminating in support of our contention: "If he finds party workers are paid laborers' wages, if he finds excessive and unvouchered travel and convention expenses in an official's account, if he finds useless employees, he is compelled either to withhold criticism of his client or to resign his post of accountant-auditor. The penalty for disclosing irregularities is much more certain to be applied than the penalty for not disclosing them." Report No. 3 of the New Jersey *Commission to Investigate County and Municipal Taxation and Expenditures* (1931) p. 72.

and that it should take measures to protect and further that interest. And it is, of course, equally easy to show that the state, if it wishes, has the legal authority to take such measures as it likes for such objects. But political life, like all other aspects of life, refuses to be compressed within the narrow limits of theories and legal formulae. Mr. Walter Lippmann says somewhere that "nothing is easier than to simplify life and make a philosophy about it. The trouble is that the resulting philosophy is true only of that simplified life." Something like this mistake has been made in much of our thinking about state and local relationships. On the one hand, observers, impatient and perhaps a trifle supercilious towards the clumsy methods of local officials, call loudly for a more rigid central control. On the other hand, the mystical devotees of "home rule" and "local self-government," anxious to prevent the building up of a state administrative hierarchy, would go to the other extreme of well-nigh complete local autonomy.

In short, we have too often discussed the question seriously as if the choice were between the legal and actual predominance of a Prussianized central bureaucracy on the one hand and what Lord Passfield once called "decentralized administrative anarchy" on the other. We forget that such terms as "centralization," "decentralization" and "home rule" are, after all, but words, standing for categories which may no longer have any vital content. Their use at this day is a striking illustration of the truth of Bagehot's remark that "language is the tradition of nations; each generation describes what it sees, but it uses words transmitted from the past." Are we driven to the hard alternative suggested above? In our thinking about this subject, have we not been too prone to consider state and local government as two diverse species, the one interested in expanding its power by bureaucratic means, the other seeking to go "on the loose"? The problem of government is a single one and it is due almost entirely to historical accident that various territorial organs have arisen to handle it. Is it not possible to begin with the assumption that there is no serious divergence in most cases between the reasonable standards desired by the better opinion in the state and the willingness of local officials to attempt to reach these standards? And, having made such an assumption, is it not possible to work out a technique of administration in line with it? As the world shrinks, we must develop such a technique as will recognize the unity of the problem of government while leaving room for the infinite variety of forms of solution demanded under differing local conditions.

It is the purpose of this paper to point out that, while we still talk of the problem in the stereotyped terms, such a technique as is referred to above has developed within the administrative structure of our states, to indicate as clearly as possible the forms it is taking, and to suggest possibilities in the detailed study of the new set-up.

But little attempt has been made by academic students to study the extent to which state officials advise local officials and coöperate with them in the solution of their problems. The extent of this coöperation has already reached large proportions and little attention has been given to it probably because it is generally extralegal in its origin and examples of it are to be found by observing the actual process of administration. A series of studies for single states would be valuable in producing results with a very definite bearing upon the larger questions of "centralization" and "decentralization," and in giving us a much more realistic picture of the process of administration.

The relationship of advice and coöperation has, in many cases, sprung up quite outside the statutes and has been forced upon state and local officials largely by the exigencies of actual administration. It has apparently been regularized only infrequently and has developed quite naturally out of the contacts of officers. The process and its possibilities may be illustrated by a few examples. The Connecticut legislature in 1929 enacted a law intended to effect uniform traffic regulations throughout the state.⁶ As a matter of law, it would have been within the power of the state immediately to impose such regulations as it saw fit throughout the state. As a matter of fact the state authorities acted only after an extensive series of traffic surveys within the towns, conducted by a special technical division of the department of motor vehicles, at the request of local authorities. Was the resulting system state or local? Legally, no doubt, the impetus for a uniform system came from the sovereign legislature; actually, what we find is the result of a commonsense coöperation between state and municipal authorities.⁷ In the same state, there have existed for a number of years Advisory Committees of local assessors and tax collectors working in closest coöperation with

⁶*Public Acts 1929, Ch. 209.*

⁷By June 30, 1930, surveys had been completed in 27 towns and were in progress in 17 others. See *Report of the Commissioner of Motor Vehicles, 1928-1930*, pp. 48-49, and "Coöperative Enforcement," *Bulletin No. 71*, of the same department (1930).

the State Tax Commissioner who, by statute, is the head of the tax system of the state. The work of these committees both in shaping required and desirable legislation and in solving routine administrative problems has been very valuable in bringing together state and local points of view and in building up an integrated and efficient assessing and collecting system in the state. Where a reasonable security of tenure by local officials exists, such practices are quite likely to create an interesting administrative mechanism for which lawyers and judges have as yet evolved no descriptive words.

The contacts of state tax supervising authorities with local administrative officers have been particularly fertile in producing samples of this *tertium quid* of administrative machinery and in introducing localities to approved standards of administration. Much of this goes on without benefit of statute, rising out of the natural course of public business. For example, notable progress in local budget-making has been made in Wisconsin by virtue of the informal efforts of the State Tax Commission to interest local officials in improved methods.⁸ A recent report of a legislative commission in Massachusetts contains the statement that "the greater part of the assistance given the cities and towns by him (*i.e.* the Director of Accounts) has been in the form of advice, founded on his lifetime knowledge of municipal affairs, and a great deal of this advice has been quite apart from the municipal functions over which he has direct authority."⁹ And a close student of Massachusetts town government says that "financial methods have been unified to include a close supervision of indebtedness, provision for the installation of a uniform accounting system, and central audits, while in the course of guidance in fiscal matters, tactful state officers serve informally as consultants in almost every phase of town government and local officers have come to depend upon their counsel in many matter of community policy."¹⁰ In New Jersey the Commissioner of Municipal Accounts,

⁸Report of the Wisconsin State Tax Commission for the years 1925-1928, p. 69; *ibid.*, 1928-1930, pp. 214-220. Sixty-one of the 71 counties in the state and 86 of the 144 cities have voluntarily adopted the uniform accounting system developed by the Commission. See a statement by Edward L. Kelley, Chairman of the Commission, in *U. S. Daily* for October 3, 1931.

⁹*Final Report of the Special Commission Established to Investigate Municipal Expenditures and Undertakings and the Appropriation of Money under Municipal Authority* (House Document No. 1150, 1929), p. 15.

¹⁰John F. Sly, *Town Government in Massachusetts*, p. 124.

by a tactful use of his statutory powers, has done much to extend the helpful influence of his office into the local conduct of affairs and to improve standards of administration in other fields than those of finance.¹¹ In Vermont and in California, the advisory services of the engineers of the state highway department are available to the local governments and in the latter state this has "made it possible for the state and counties to mutually gain in establishing a coördinated system of roads," whereas the assistance of the state in the formation of joint highway districts has been reported as "producing mutual advantages to the interested parties and is conducive to permanent and advanced location standards."¹² It is not necessary to multiply examples for they may be found in every field in which the state touches local government, sometimes provided in the statutes, even more often, perhaps, as a normal outgrowth of administrative experience. The point to emphasize is that these contacts are so frequent and the technique of advice and coöperation so well developed that we have gone far in many states towards the creation of a relationship of first-rate importance.

In a few cases, the statutes are recognizing the value of state-local coöperation in the working out and maintenance of administrative standards by providing for joint action either in the choice of officials or in the elaboration of work programs and procedure. Thus in Virginia and in North Carolina educational, highway and welfare programs are the joint product of state and local officials. The technique developed in working out these programs and in choosing officials creates an administrative mechanism which can be called neither state nor local. "We have state officers who are local citizens administering state policies by adaptation to the county, either in exact application or in collaboration by local programs. The purpose of the county use and adaptation of state policies can be achieved only by integration of the state government that formulates the policies and the county mechanism charged with responsibility for coöperative execution of common functions."¹³ The extreme decentralization, long charac-

¹¹See Wylie Kilpatrick, "State Supervision of Municipal Finance in New Jersey," *Nat.Mun.Rev.* XIV, 501 (August, 1925); *Report of the Commissioner of Municipal Accounts, 1927*, p. 7; Walter R. Darby, "State Regulation of Local Financing," *U. S. Daily*, Dec. 30, 1931.

¹²*6th Biennial Report of Division of Highways*, pp. 37-39; *7th Biennial Report*, pp. 19, 31, 37 (California).

¹³See Wylie Kilpatrick, *County Management*, Part III, pp. 36-41.

teristic of our administrative machinery, will no doubt always create a strong temptation to centralization; but the notion developed in these two states, recognizing, as it does, the partnership between the state and the locality both in the formulation and execution of policies should go far towards providing a solution for the problem of reconciling local democracy and administrative efficiency. An application of the same notion is urged in Illinois with reference to the choice of county welfare workers, when it is suggested that the state might defray half the salary of such workers as are chosen from lists of eligibles prepared by the state Department of Public Welfare.¹⁴

Recently the New Jersey Tax Survey Commission has offered a suggestion of potential value in the development of higher standards in local administration. Briefly, this consists in the creation of a division of costs and standards in the Department of Municipal Accounts with the function of developing standards of costs and performance which local governments should be required to consult in the preparation of their budgets. This is an ingenious idea and in theory a very fruitful one.¹⁵ The difficulty with it consists largely in the fact that we are by no means equipped to put it into effective practice. If we search the literature of local administration, we are impressed, I think, with the paucity of worthwhile studies in this field, and with the almost total absence of any valid standards.¹⁶ And, in the nature of the case, it is difficult to see how such standards could be developed and applied by a central state authority. Such standards would necessarily vary somewhat from one community to another. The idea offers a possibility for the future but much remains to be done before it can have any practical value as an administrative device.¹⁷ While

¹⁴See *Report of the Committee on Child Welfare Legislation* (1931), p. 48.

¹⁵*Report of the Commission to Investigate County and Municipal Taxation and Expenditures; The Organization, Functions and Expenditures of Local Government in New Jersey* (1931); for comment, see Rowland Egger, "Reduced Costs the Key to Reduced Municipal Taxes," *Nat.Mun.Rev.* XX, 263-66 (May, 1931).

¹⁶There is room, it would seem, for a first-rate study of the actual practice followed by our states and cities in the development of administrative standards.

¹⁷"The simple fact seems to be that cost accounting and operating audits are not, as applied to municipalities, sufficiently well developed in themselves, or of such general use as to permit the collection of data to warrant the formulation of administrative standards." Rowland Egger, "Home Rule: The Crisis for Local Self-Government," in *New Jersey Municipalities*, December, 1931, pp. 17-18.

it may be admitted that the elaboration of practicable standards is a possibility of the future, the labor ought to be undertaken as a coöperative one in the performance of which local officials and citizen agencies should have a large share.¹⁸ And before such machinery can be made manageable and function properly, many thorny questions of local areas must be threshed out. The existence of such vast numbers of tax-levying areas as are now found in most states would make impossible any effective coöperation between the state and local governments because of the obvious difficulty involved in maintaining constant contacts. The work is likely to be impossible on any large scale without at least a constructive reduction in the number of areas.

In attempting to get an accurate picture of the developing technique of state-local coöperation, other devices need to be more completely explored than they have been to date. It ought to be possible, for example, to determine with some assurance the influence of some of our leagues of municipalities in bringing about some fruitful contact between state and local officials interested in common problems. While it may be suspected that many of these are little more than lobbying organizations, it is quite probable that the better ones are making a steady contribution to the solution of the problem which would repay detailed study.¹⁹ It would also seem possible, by investigation on the ground, to evaluate rather concretely from this point of view the work of the various associations of local government officials. The formal meetings of such groups are usually attended by state administrative officials and it may be assumed that more or less steady contacts are maintained between the two levels of officialdom.²⁰

¹⁸There is much sound sense in the observations made on this point by Dr. Wylie Kilpatrick in *New Jersey Municipalities*, January, 1932, pp. 14 ff; for comments on the fitness of a state agency for such work see the article by "Observer," "Has the Indiana Plan been a Success?" in *Nat.Mun.Rev.* XXI 101-106 (Feb., 1932). In reply to the latter article see Philip Zoercher, "Regarding the Indiana Tax Plan," *Nat.Mun.Rev.* XXI 309-311 (May, 1932).

¹⁹For interesting and significant examples of actual coöperation between such groups and state administrative officials see *Proceedings of the 20th Annual Meeting of the New York Conference of Mayors*, etc. (1929), pp. 15-19; and for comment, *Massachusetts House Document No. 1150* (1929), referred to in note 9, pp. 29-34.

²⁰There is an interesting account of the influence of similar English associations in an address by Louis Brownlow before the 7th annual meeting of the American Municipal Association (1931); see *Proceedings*, pp. 17-19. The same publication contains a complete history of American leagues of municipalities by Harvey Walker.

It must be admitted, of course, that there are at present serious obstacles in the way of the building up of an administrative machine such as is envisaged in this discussion. In the first place, in many states the central administrative officials, holding office by political tenure, are themselves without skill and without interest in such experimentation as is necessary to improve technique. High standards are not likely to be elaborated in such an environment and the state is not likely to be able to assume a position of leadership. In the localities, the persistence of the long ballot and the rapid turnover of officials are likewise obstacles in that they prevent the creation of a local repository of sound traditions of public business. There is finally an absence in many communities of any regular channels through which interested local groups and citizens may be kept informed as to the best practice. Hence, there are few centers of independent and intelligent criticism of official conduct. Improvement may be expected, perhaps, through the steady progress of the merit system, the simplification of the machinery of local government, and the more ample support being given to scientific research through local bureaus of municipal research and the better financed taxpayers' leagues.

If such a system of state-local coöperation is evolving as is here assumed, it is a matter of no little importance. It is a development of considerable consequence if we are actually building our machinery on the assumption that the problems of government are unities. It is freely admitted, as it must be, of course, that such a system by implication at least acknowledges the legal supremacy of the state. When the state sets minimum standards, when it coöperates with county or city in the choice of personnel, when it urges improvements in administration, when it does no more than supply tactful advice, it does it, of course, in a sense, in its character of overlord. Its legal supremacy is abated not a jot or tittle. Those with a passion for strict legal accuracy will insist on calling the relationship one of supervision. In a pinch they are correct. But the realist will insist that what we have here is something not comprehended in the rounded periods of our judicial oracles, but a scheme grounded in the practical wisdom of those interested in getting a job done. No such simple formula as we have affected to follow will comprehend the variety of our civic life.

THE JEFE POLITICO IN MEXICO

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The dictatorial régime of Porfirio Díaz in Mexico was a highly perfected one-man system—so perfect because it was so simple, notwithstanding the fact that Mexico was, theoretically, a federal state. There was but one governmental power and that was the executive; the other two departments, the legislative and judicial, existed in name only. Three officers, in the federal, state, and local governments, constituted a hierarchy of all-embracing authority; they were, first, the President of the Republic; second, the governors of the states whose elections were controlled by the President, and who were subject only to presidential restraint; and third, the *jefes políticos*, or political chiefs, local agents of the federal and state executives. Of the various adjuncts and bulwarks of the Díaz system—the army, the *rurales*, the *acordada*, the police, and the governors, the *jefes políticos* were by no means the least important. They constituted, rather, a broad and firm base upon which the entire dictatorial structure rested. As indispensable as the intendants to Louis XIV were the *jefes políticos* to Porfirio Díaz. Yet, notwithstanding the importance of the *jefatura política* during a century of Mexican history, the institution has never been made the subject of special examination. It is the purpose of the present article, therefore, to account for the origins and development of this office, with a brief statement of its position in the Porfirian system.

The *jefe político* was a creation of the Spanish patriots who, in defiance of the power of Napoleon, convened in the famous Cortes of Cadiz to formulate a liberal constitution.¹ That notable instrument provided that the political government of the provinces should reside in a *jefe superior* (also known as *jefe político*), who was to be appointed by the king.² It was further provided that

¹For the Constitution of 1812, see José M. Gamboa, *Leyes Constitucionales de México durante el Siglo XIX* (Mexico, 1901), pp. 159-235.

²Art. 324. When this article was debated in the Cortes (January 12, 1812) an attempt was made to amend it by associating with the *jefe político* two adjuncts, named by the provincial assembly, to serve as a check on the king. The proposal was defeated on the floor. *Diario de las Discusiones y Actas de Las Cortes* (Cadiz, 1812), XI, 236-238.

this official should preside over the provincial deputation or assembly, and, whenever present, over meetings of the municipal councils and electoral commissions.³

Following the promulgation of the Constitution, the Cortes enacted several decrees defining more fully the *jefatura política*.⁴ Eventually, by decree of June 23, 1813, the Cortes defined in elaborate detail the political government of the provinces. This decree, of which 35 articles were devoted to the *jefe político*, was the organic law of the *jefatura política*, not only for Spain but for the colonies overseas (*de ultramar*); and in Mexico its authority was recognized for over half a century after independence. It is necessary, therefore, to describe the principal features of this law:⁵

A. The general nature and purpose of the office.

1. "According to Article 324 of the Constitution, the political government of each province resides in a *jefe político* named by the king in each one of them. In him is vested the superior authority within the province to care for public tranquility, good order, the security of the persons and property of the inhabitants, the execution of the laws and orders of the government, and in general all that pertains to the public order and prosperity of the provinces; and as he will be responsible for the abuse of his authority, he must be punctually respected and obeyed by all."⁶

2. The *jefe político* had to be a man "of demonstrated impartiality, morality, and adherence to the Constitution, to independence, and to the political liberty of the nation." He was required to reside in the capital of the province and be present at the meetings of the electoral juntas and the provincial deputation. In case

³Arts. 46, 67, 81, 309, 325, 326, 332, 337.

⁴For example, one of the decrees (Nov. 10, 1812) declared that "the Constitution does not concede a vote in the ayuntamientos to the *jefes políticos*"; another decree (March 24, 1813) declared that the *jefe superior* and *jefe político* were the same officer; and still another decree (April 14, 1813) accorded the *jefe político* the right to concede or deny license to contract matrimony. Manuel Dublán y José María Lozano, *Legislación Mexicana* (Mexico, 1890, 19 vols.), I, 397, 407, 409.

⁵For the decree of June 23, 1813, see Dublán y Lozano, I, 413-421, and *Colección de Los Decretos y Ordenes de Las Cortes de España que se reputan vigentes en la República de los Estados Unidos Mexicanos* (Mexico, 1829), pp. 85-101.

⁶*Decreto de 23 de Junio de 1813*, Cap. III, Art. 1, in *Decretos y Ordenes de las Cortes*, p. 95.

of vacancy, or absence of the *jefe político* from his post, the intendant was to assume the office.⁷

3. Whenever it conduced to more efficient administration, the province was to be divided into *partidos* (districts) under *jefes políticos subalternos* (subaltern political chiefs). These lesser officers were to exercise over their *partidos* powers and duties compatible with those of the *jefe político* to whom they were subordinate.

B. The duties and powers of the *jefe político*.

1. His relation to the Central Government. The *jefe político* was first and foremost the agent of the central government. He was the sole channel of communication between the government and the provincial deputation. He was the responsible authority for the circulation in the province of laws and decrees of the general government. It was the duty of the *jefe político* to report annually to the government the vital statistics of the province. In the frontier provinces, the *jefes políticos* vised and issued passports to travelers coming from or going to foreign countries.

2. His relation to the Provincial Deputation. The *jefe político* was also head of the provincial government. He was the channel of communication between the ayuntamiento and the provincial deputation, a council composed of seven members, of which he was president. The *jefe* was required to see that the deputation met regularly, and during emergencies, and that it fulfilled its obligations and duties. The *jefe* could suspend members of the deputation when they abused their rights. The provincial deputation assumed responsibility in financial matters such as accounts and apportionment of taxes, but the *jefe político* was held responsible for the discharge of those duties which were imposed on the deputation by the constitution or by law.

3. His relation to the Ayuntamientos. The *jefe político* presided, without vote except in case of a tie, over the ayuntamiento of the capital of the province, and over any other ayuntamiento when he happened to be present. The subaltern political chief enjoyed the same rights over the ayuntamientos. He also enjoyed the absolute right of deciding contested elections to the ayuntamientos.

⁷With the creation of the *jefe político*, although the office of the intendant was not abolished, it was reduced strictly to that of chief fiscal officer for the province. *Ibid.*, p. 91. For the intendency system, see Lillian Estelle Fisher, *The Intendant System in Spanish America* (Berkeley, 1929).

4. Promotion of the Public Welfare. The *jefe político* was authorized, with the aid and coöperation of the health department (*junta de sanidad*) and the provincial deputation, to undertake all proper measures to combat disease and epidemics. He was also instructed, in the interest of public welfare, to foster agriculture, industry, commerce, and everything useful or beneficial to the province.

5. Maintenance of Public Order. As first agent of the government in the province, the *jefe político* was ordered to enforce the observance of the constitution, and the laws and decrees enacted under it. He was to arrest delinquents and turn them over to competent judges within twenty-four hours. The *jefe político* was empowered not only to execute the penalties imposed by law, but to fine those who disobeyed or failed to respect him, or who disturbed the public peace. Being responsible for the maintenance of good order within the province, the *jefe político* could require military aid to maintain peace and guard the highways.

6. Electoral Duties. The Constitution of Cadiz provided for a very elaborate and complicated system for the election of national deputies. There were electoral juntas for the parishes, *partidos*, and the provinces. The *jefe* presided over the provincial junta, and over those of the *partidos* and parishes, if and when he happened to be present. It was his duty to publish notices of the elections.

7. His Relations to the Military. The *jefatura política* was ordinarily to be kept separate from the military command in each province. However, in places threatened by the enemy, or for the maintenance of public order, the government could unite the political and military commands. This, in fact, became a common practice in America. The *jefe político* was to coöperate with the military officers, assuming charge of the baggage and the quartering of troops within the provinces.

8. His relation to the Church. The king, and the regency in his place, could delegate to the *jefes políticos* overseas the exercise of the prerogatives of the *real patronato* as it was then (1812) enjoyed by the governors in those provinces.*

Such was the *jefe político* as created by the Liberal Cortes. The title given the new officer clearly indicates his essential characteristic, i.e., political administration. He was to have a variety

*See J. Lloyd Mecham, "The Origins of Real Patronato de Indias," in *The Catholic Historical Review*, VIII (July, 1928), 205-228.

of functions, but not legislative or judicial, and only to a limited degree, fiscal and military. In seeking a model for an effective provincial administrative agent, the Spanish constituents found it in the Napoleonic prefect.⁹ The *jefe político* bears a most striking resemblance to the prefect, yet the influence of the centuries-old *corregidor* tradition was not entirely absent for some characteristics of that office were retained.¹⁰

In the Constitution of 1812 the possessions *de ultramar* were placed on an equality with the Peninsula. Consequently the constitutional provisions relating to provincial government, insofar as they were applicable, were designed for the colonies as well as for the home-country. The constitution was proclaimed in New Spain by Viceroy Venegas, September 30, 1812, but he was dilatory about establishing the new régime. The viceroy continued to exercise absolute power.¹¹ The next viceroy, Calleja, however, solemnly pledged (March, 1813) to observe the constitution, and ordered the election of provincial deputations and municipal councils; also, the new judicial system as provided by the constitution was established. As for the introduction of the *jefe político*, it appears that this was accomplished by affixing to the title of intendant that of *jefe político superior*.¹²

When Ferdinand VII was restored to his throne, he immediately declared the Constitution of 1812 to be null and void, and proclaimed by royal decree (May 4, 1814) the complete restoration of governmental institutions in New Spain as they had existed prior to May 1, 1808. This involved the dissolution of the elective provincial deputations and ayuntamientos, as well as the restoration of the intendants to their former positions as superior chiefs of the great divisions of the viceroyalty.¹³ Inasmuch as the constitutional régime had been barely established in New Spain, the

⁹See León Duguit et Henry Monnier, *Les Constitutions et Les Principales Lois Politiques De La France Depuis 1789* (Paris, 1925).

¹⁰See C. E. Castañeda, "The Corregidor in Spanish Colonial Administration," in *The Hispanic American Historical Review*, IX, No. 4, pp. 446-470. Although the corregimientos were abolished when the intendancy system was introduced into New Spain, nevertheless some, notably Querétaro, were retained, and some of the intendants were known as Corregidores-Intendentes. Marques de San Francisco, *Los Corregidores de México* (Madrid, 1917), p. 7; Fisher, *op. cit.*, pp. 103-105.

¹¹Vicente Riva Palacio, ed., *México á traves de los siglos* (Barcelona, 1888-1889, 5 vols.), III, 379.

¹²*Ibid.*, pp. 363-364, 380-382, 394.

¹³*Ibid.*, p. 456.

restoration of the old system was accomplished with ease. Yet the old order was not to endure long, for, in 1820, following a revolt against his autocratic rule, Ferdinand was forced, on March 7, to restore the Constitution of 1812. By decree, April 15, 1820, all laws of the first Cortes applicable to the colonies were restored. This order was published in Mexico on June 3, 1820.¹⁴ Notices were sent immediately to the provincial authorities to proceed to the election of the provincial deputations.¹⁵ The immediate establishment of the *jefatura política* must have been contemplated, for a circular of the Ministry of Hacienda dated July 11, 1820, and published in Mexico on October 10, 1820, provided that laws and decrees could only be published and circularized by the *jefes políticos* in accordance with Cap. 3, Art. 17, of the decree of June 23, 1813.¹⁶ Furthermore, by decree of September 11, 1820, the *jefes políticos* and ayuntamientos were ordered to imprison or put to work persons having no known mode of living.¹⁷ As well as can be ascertained, the reestablishment of the *jefatura política* in Mexico was simply accomplished by effecting a fusion of that office with the intendancy which had been relieved of those functions, administrative and judicial, deemed to be contrary to the constitution.¹⁸ Thus, after the establishment of the constitutional régime, one encounters *intendentes y jefes políticos* in New Spain.¹⁹

In the *Plan de Iguala* (February 24, 1821), which provided for the separation of Mexico from Spain, it was stipulated that "All branches of the state and public employees will continue as today, and only those will be removed who oppose this plan."²⁰ Only those Spanish laws which conflicted directly with the *Plan de Iguala* were regarded as being no longer in force in Mexico. Consequently, with respect to provincial government, the famous decree of June 23, 1813, was still applicable to Mexico. Therefore,

¹⁴*Decretos del Rey don Fernando VII, Expedidos desde su restitución al Trono Español hasta el Restablecimiento de la Constitución de 1812* (Mexico, 1836), pp. 284, 292.

¹⁵E. C. Barker, "The Government of Austin's Colony, 1821-1831," in the *Southwestern Historical Quarterly*, XXI, 224-225.

¹⁶*Ibid.*, p. 307.

¹⁷*Decretos y Ordenes de Las Cortes*, p. 130.

¹⁸*Decretos del Rey don Fernando VII*, pp. 292-293.

¹⁹The Commandant General of the Provincias Internas was called *Comandante General y Jefe Superior Político de Provincia*.

²⁰*Colección de las Leyes Fundamentales que han regido en la República Mexicana, 1821-1857* (Mexico, 1857), p. 8.

the provinces, when electing delegates to a constituent Congress, made use of the *jefe político*, quite in agreement with the electoral provisions in the Constitution of 1812.²¹ Also in strict accordance with the decree of 1813, the Constituent Congress declared (June 5, 1822) that the *jefe político* should be the channel of communication between the government and the ayuntamientos and the provincial deputations.²²

Immediately before, during, and immediately after the brief imperial interlude of Agustín Iturbide, the control of local government in Mexico was concentrated in Mexico City—in provisional governments, Emperor, and constituent Congress—and was exercised through *jefes políticos superiores* in the provinces which had been the old intendancies.²³ When the federal republican system was adopted in Mexico, the legislatures of the different states were empowered by the *Acta Constitutiva* (January 31, 1824) "to organize provisionally an internal government, and in the meantime they shall see that the laws actually in force shall be observed."²⁴ It was by this delegation of authority that the states proceeded to organize provisional governments and frame constitutions. The transition from centralism to federalism and its effect on the *jefatura política* will be illustrated by examples taken from the State of Puebla.

The Constituent Congress of the State of Puebla met on March 19, 1824. It proceeded to declare that the state was composed of twenty-one *partidos* or districts. These had been subdivisions of the old intendancy of Puebla known as subdelegations. Temporarily the subalterns were to remain at the head of the *partidos*.²⁵ On

²¹Decree of November 17, 1821. *Colección de Ordenes y Decretos de la Soberana Junta Provisional Gubernativa y Soberanos Congresos Generales de la Nación Mexicana* (Mexico, 1829, 2 vols.), I, 31-32.

²²*Ibid.*, II, 48. It was about this time (1822) that the office of intendant was separated from and made subordinate to that of *jefe político*.

²³*Ibid.*, II, 184. There were 11 provinces exclusive of the *Provincias Internas* which were under the superior command of a commandant general. The individual provinces were under political and military chiefs called governors. In August, 1823, the military and civil commands were separated in the provinces of Texas, and the one who exercised the civil command became known as the *jefe político*. Rhea M. Smith, *The Office of Political Chief in Mexican Texas* (Unpublished manuscript, The University of Texas Archives), pp. 10-11.

²⁴Art. 25. Gamboa, *op. cit.*, p. 310.

²⁵*Colección de los Decretos y Ordenes más importantes que Espedió el Congreso Constituyente del Estado de Puebla en los Años de 1824 y 1825* (Puebla, 1827, 3 vols. in one), I, 1.

April 24, 1824, the Constituent Congress of the state agreed on the powers of the governor. After enumerating certain powers and duties such as: watching over the public tranquility and security, the supervising of the administration of justice, the command of the state militia, the promulgation and execution of proposed measures to Congress, and the signing of legislative measures, the decree specifically concluded as follows: "He [the governor] will also have all the duties, attributes, honors, and preëminences which belong to the *jefes políticos superiores* conforming to the decree of the Cortes of Cadiz of June 23, 1813, excepting what may be incompatible with the present system."²⁶ It is clearly indicated by the foregoing that the state governor was the direct successor of the *jefe político superior*.

In the Constitution of the State of Puebla, signed December 7, 1825, the only reference to provincial government was to this effect: "A law will divide the territory into departments and these into *partidos*."²⁷ On March 30, 1826, a very comprehensive *Ley del Gobierno Político* was enacted.²⁸ It provided that the political government of the state should be vested in the governor, prefects, sub-prefects, alcaldes, and ayuntamientos. Since the office of prefect, as created by this law, was almost identical with the *jefatura política* which was established at the same time in other states, it must be described in some detail:

A. General.

The prefects exercised administrative jurisdiction over departments, which were in turn divided into *partidos*. There were seven departments and twenty-five *partidos*. The prefects were appointed by the governor from a list of three names submitted by the state council. The prefect had to be 30 years of age, a native of Mexico, and a resident of the State of Puebla for at least three years. His term of office was for four years, although he was eligible to indefinite reëlection. He had to reside in the capital of the department and could not absent himself from his department without permission of the governor.

²⁶*Ibid.*, April 24, 1824, I, 7-8.

²⁷*Ibid.*, Art. 2, I, 108.

²⁸*Ibid.*, II, 11-36.

B. Powers shared by the governor with the prefect.

Over their departments the prefects were to exercise certain duties and powers which were also conceded to the governor. These were: (1) to impose, without recourse, fines up to 200 pesos, or one month's labor, on those who refused to obey them, or showed lack of respect, or in any way disturbed the public peace; (2) to order the arrest of anyone breaking the public peace, and to turn him over to the competent justice within 48 hours; (3) to see that foreigners enjoyed the protection of the laws; (4) to grant passports to anyone requesting to leave the state; (5) to require aid of the military commandant when necessary, to provide for the security of the roads and peace of the people; (6) to encourage the establishment of primary schools and other educational or charitable establishments; (7) to see that popular elections are held on days designated by law; and (8) to frame ordinances, with the approval of the governor, designed to maintain public order.

C. Other powers and duties of the prefects.

1. As agent of the central government, the prefect was the channel of communication between the government and the ayuntamientos. He published laws and saw that they were enforced. He reported to the government every three months on the state of public tranquility within the department, and the state of municipal accounts. He was also required to recommend to the government desirable and necessary measures to develop and improve industry, education, public welfare, and public works. Reports on infractions of the federal and state constitutions were also enjoined on the prefect.

2. As head of the local administration, the prefect was required as general overseer, to visit all the towns of his department at least four times a year, to watch over the administration of justice, and to supervise the good conduct and *sana doctrina* of school teachers. He heard complaints against departmental functionaries, and, for justifiable cause, fined or suspended those not popularly elected. The prefect was instructed to adopt measures to curb disease and epidemics. And, reminiscent of a power vested in the *jefe político* by the Cortes of Cadiz, the prefect could concede or deny license to minors to marry.

3. With respect to the municipalities, the prefect presided, without vote, except in case of a tie, over the ayuntamiento meetings. He decided contested elections to the municipal councils. Responsibility that the ayuntamientos performed their duties and did not exceed their authority was placed on the prefect. Finally, he supervised the administration and expenditure of municipal funds and municipal property.

4. The military command, apart from the disposing of the civic militia, was denied the prefect. However, as has been noted above, he could require, in the event of necessity, military support in maintaining the peace.

D. Sub-Prefects.

Over each one of the *partidos* was a sub-prefect, who was appointed by the governor. He bore very much the same relation to the prefect which the latter bore to the state governor. The three comprised, with the *alcaldes* of the ayuntamientos, the administrative hierarchy of the state.

Barring the fact that the prefect of Puebla had no relations with a departmental deputation, since the constitution provided for none, his general position in the governmental scheme was nearly identical with that of the *jefe político* in the organic law of 1813. This, notwithstanding the fact that the state governor appears, in many respects, to have been a logical successor of the *jefe político*.

Like Puebla, most of the other states, in organizing their provincial governments adhered rather closely to the decree of June 23.²⁹ Even in the frontier State of Coahuila and Texas, it was accepted as the model for provincial organization. In August, 1824, a Constituent Congress met at Saltillo and installed a provincial government. On August 28, 1824, it declared that "the political chief and the deputation of Texas have ceased in their functions, as has already taken place with respect to the authorities of the same class in Coahuila."³⁰ By decree of February 1, 1825, the Department of Texas, was created with a *jefe político*

²⁹See, for example, the State of Jalisco in *Colección de los Decretos y Ordenes del Honorable Congreso Constituyente del Estado Libre de Jalisco* (Guadalajara, 1826), I, 73.

³⁰H. P. N. Gammel, *The Laws of Texas, 1822-1897* (Austin, 1898), I, 8. The deputation had been organized at Bexar, October 2, 1823. Smith, *op. cit.*, p. 11.

resident at Bexar.³¹ His duties, fully outlined in the decree, were based on the decree of June 23, 1813. It should be noted that, although the *jefe* commanded the militia of the department, the regular military command was under a commandant, who, on request, extended aid to the *jefe político* for the preservation of law and order. In the Constitution of Coahuila and Texas, which was adopted on March 11, 1827, it was provided that the state should be divided into departments under political chiefs, and the departments in turn into districts under district chiefs.³²

When federalism under the Constitution of 1824 was supplanted by centralism, the organization of provincial government in Mexico was but slightly affected, for a considerable degree of centralism already existed within the states. The sixth of the famous *Siete Leyes* (December 29, 1836) was devoted to the "Division of the Territory of the Republic and Local Government."³³ The states were converted into departments under appointive governors, and the departments, in turn, were subdivided into districts under prefects, and *partidos* under sub-prefects. According to the constitution the duties of the prefects were: (1) to look after the order and public tranquility of their districts, under the absolute control of the governor; (2) to observe and insure observance of the orders of the government of the department; and (3) to look after the fulfillment of the obligations of the ayuntamientos, and in general, to supervise everything concerning public order. The sub-prefects were to be named by the prefects. By law of March 20, 1837, the details concerning the organization of provincial government were supplied.³⁴ In this law the principal features of the office of the *jefe político* as it existed in the state constitutions were retained. The relations between the *jefe político*, now the prefect, and the governor were not altered. But the governor, of course, was made directly dependent on the president in Mexico City. Provincial government was not altered when the more highly centralistic constitution, the Organic Bases of 1843, was adopted.³⁵

Federalism was restored in 1846. In most of the states the old constitutions under the federal instrument of 1824 were restored.

³¹Gammel, *op. cit.*, I, 11-12.

³²*Ibid.*, I, 334-335.

³³Gamboa, *op. cit.*, pp. 415-424.

³⁴Dublán y Lozano, *op. cit.*, III, 323-329.

³⁵Gamboa, *op. cit.*, pp. 428-481.

In Puebla, for example, the *Consejo de Gobierno* (September 1, 1846) proclaimed the restoration of the Constitution of December 7, 1825, and of the organic law for the political government of the State, dated March 30, 1826. Under this law the state prefects were reestablished.³⁶

Before discussing the office of *jefe político* under the Constitution of 1857, during which period it gained its greatest notoriety as an adjunct of the Díaz system, the chronological order of discussion will be disturbed to note briefly at this point the changes effected in provincial government during the Maximilian episode. By laws of April 10 and November 1, 1865, the interior government, under the Ministry of Gobernación, was divided into prefectures, sub-prefectures, and municipalities. The major divisions, the old states, were designated departments under prefects. The prefects who supplanted the governors, were appointed by the Emperor, and were designated "delegates of the Emperor for the administration of the departments." They occupied triple positions: agents of the government, delegates of the Emperor, and representatives of the departmental interests. The departments were subdivided into districts under sub-prefects who were the responsible agents of the prefects. The sub-prefects exercised a jurisdiction comparable to that of the *jefes políticos*.³⁷ As was to be expected the imperial organization reflected the French influence to an even more pronounced degree than was ordinarily the case in Mexico.

The Federal Constitution of 1857 guaranteed to the states absolute freedom in the organization of their interior governments, yet so great was the strength of the *jefe político* tradition that we find a comparable office in all of the state constitutions. With only a few exceptions, the heads of the major administrative districts in the states were called *jefes políticos*, and the districts over which they presided were called *partidos*. In a few states they were called departments or cantons. In most of the states there were only two administrative divisions, the *partidos* and

³⁶*Colección de Leyes y Decretos de la Autoridad Legislativa del Estado Libre y Soberano de Puebla, Correspondiente á la Segunda Época del Sistema Federal* (Puebla, 1850), II, 8.

³⁷*Colección de Leyes, Decretos y Reglamentos que interinamente forman El Sistema Político, Administrativo y Judicial del Imperio* (Mexico, 1865), VI, 21-30.

the municipalities, but in a few of the states there were *sub-jefaturas* under subaltern political chiefs.³⁸

Not only in the states but also in the territories and the Federal District were the *jefes políticos* to be found. The Congress was empowered by the Federal Constitution to provide for the government of the Federal District and the territories. The Territory of Baja California was directly dependent on the Ministry of Gobernación and was administered in political and military matters by a *jefe político y comandante militar*, who resided in La Paz.³⁹ In 1887 the territory was divided into two political districts, named *Sur* and *Norte*. In each one of the districts was a *jefe político* directly dependent on the Federal Executive.⁴⁰ In 1885 Congress organized the Territory of Tepic. It was divided into five *prefecturas políticas* and three *sub-prefecturas*, all under the *jefatura política* of Tepic.⁴¹ In 1879 the Federal District was made up of the municipality of the capital, and four prefectures: Tacubaya, Tlalpam, Xochimilco, and Guadalupe Hidalgo. There was a governor appointed by the President and four prefects appointed by the governor.⁴² In 1871 the Ministry of Gobernación reported that there was no organic statute for the governorship of the Federal District and that the governors exercised the powers which the Law of June 23, 1813, conceded to the *jefes políticos* for the government of the provinces.⁴³ This is interesting evidence of the long-continued force of the old decree. On March 25, 1862, the governor of the Federal District issued a decree to regularize the local government of the Federal District. The duties of the prefects as therein set forth were comparable to those of the subaltern political chiefs in the decree of 1813.⁴⁴

As has been indicated in the introductory statement to this paper the principal elements in the Díaz system of control were the state governors and the *jefes políticos*. The orders of the Dictator were circulated to the governors and they in turn transmitted them to the political chiefs for execution. The *jefes*

³⁸For a comprehensive description of the provincial organization within the states, see the annual *Memoria que el Secretario de Estado y del Despacho presente al Congreso de la Union* (Mexico). Note volumes for 1871 and 1879.

³⁹*Memoria de Gobernación*, 1871, p. 17.

⁴⁰Dublán y Lozano, *op. cit.*, XVIII, 438.

⁴¹*Ibid.*, XVII, 229.

⁴²*Memoria de Gobernación*, 1879.

⁴³*Ibid.*, 1871, p. 16.

⁴⁴Dublán y Lozano, *op. cit.*, IX, 394-396.

políticos were the absolute agents of the governors by whom they were appointed and removed. The governors in turn, although elective officers, were made and unmade at the Dictator's will. During all the period of the Porfirian domination, says Del Castillo, not a single governor ever opposed the "ukase" of the Dictator.⁴⁵

No one could aspire to a governorship who was not known to be acceptable to the President. An examination of a collection of biographies of governors, published in 1890, reveals the fact that practically all the governors had been active supporters of the Plan de Tuxtepec, the pronunciamiento under which Díaz seized the government in 1876. Eighteen of the governors were professional militarists, and several of them occupied their posts by virtue of appointment following federal intervention.⁴⁶ The governors had to be absolutely subservient to the President and it was fatal to display ambition. To aspire to the governorship, said Bulnes, was like proclaiming armed rebellion, for it was committing the nefarious crime of working against peace founded on eternal national political paralysis. If an intimate friend of Díaz asked to be made governor of a state, he was liable to be regarded as ambitious and dangerous. One arrived at high posts by humility and by dissimulating ambition. The nomination often fell upon the one who least expected it. The same writer (Bulnes) describes the duties of a Díaz governor: "To falsify the elections, federal, state, local, and municipal, conforming to word received from the Center; to distribute nocturnal clubbings to popular political troubadours; to throw journalists, in necessary cases, into fiery metallurgical furnaces capable of reverberating to the most seditious spirits; to sentence to the army those inclined to rebellion, to apply at useful times the *Ley Fuga*, to see that the populace do not display suspicious energy, to restrain the press always by sinister but efficacious means, all of the time guaranteeing the love of the people for the paternal government."⁴⁷

The fact of the absolute control of the governors by the President must be accepted. How Díaz established and maintained this supremacy over the state governors does not come within the province of this study. It is concerned rather with the imposition

⁴⁵José R. Del Castillo, *Historia de la Revolución Social de México* (Mexico, 1915), p. 138.

⁴⁶Lázaro Pavía, *Los Estados y Sus Gobernantes* (Mexico, 1890).

⁴⁷Francisco Bulnes, *El Verdadero Díaz y la Revolución* (Mexico, 1920), pp. 194-196.

of his supremacy upon the local units of government. This was the task of the *jefe político*. That Díaz was well acquainted with the uses to which the political chief could be put can be deduced from the fact that he had served as *jefe político* of Ixtlán in Oaxaca.⁴⁸

A collection of short biographies of the *jefes políticos* of Mexico was published in 1891.⁴⁹ Altogether it contained 114 names; therefore not all of these officers were included for there were in all about three hundred. Yet from this list certain interesting facts can be learned. Forty-seven of the *jefes políticos* were bearers of military titles, nine of them being below the grade of general. Practically all of the governors were generals.

Most of the civilian *jefes* were natives of the states in which their posts were located, and had long records of public service. They usually were well educated, generally in the professions. Although lawyers predominated, the teaching profession was well represented. Many of the militarists, on the other hand, were not natives; their records revealed their occupancy of administrative positions in different states. These men were undoubtedly aids of the Dictator and were moved from one important post to another as need arose. A writer says that the *jefes políticos* "were placed in charge of sections remote from their homes, so that their actions would not be hampered by ties of friendship or relationship."⁵⁰ This was not true for the majority of *jefes políticos* were natives of their own *partidos*. In sum, most of the political chiefs were able, efficient men who would compare favorably with provincial officials in any other country.

A critic of the Díaz régime defines the political chief as follows: "A *jefe político* in the Porfirian times was entrusted with the political and administrative direction of his district, the supervision and direction of the ayuntamientos, the command of the forces of security and police, the immediate care of all the public and municipal services, the prisons, the public charities, the tax collection supervision, the execution of all material works in the district, the electoral fraud in all its degrees,⁵¹ tutelage of the

⁴⁸Carleton Beals, *Porfirio Diaz* (Philadelphia, 1932), p. 64.

⁴⁹Lázaro Pavía, *Ligeros Apuntes Biograficos de los Jefes Políticos de los Partidos* (Mexico, 1891, 2 vols.).

⁵⁰Helen Phipps, *Some Aspects of the Agrarian Question in Mexico* (Univ. of Texas Bulletin, No. 2515, Austin, 1925), p. 120, note 40.

⁵¹The polling places were generally in the offices of the political chief; so no one dared to vote unless asked to do so. Byron G. Skelton, *Electoral*

judicial officers, deprivation of the ayuntamientos of their remaining responsibilities, the holding of national and patriotic celebrations, suppression of banditry, preparation of tax-list, statistics, meteorological observations, upkeep of bridges, paths and roads of the districts, distribution of false information to secure his power, the preparation and organization of local fiestas, to receive and compliment the governor in each one of his districts—and all this for \$150 or \$200 monthly.”⁵² This is a much more accurate and helpful definition of the *jefe político* than that of a sycophantic governor of Oaxaca: “They are advanced sentinels of public liberties, zealous guardians of institutions, persons, and property, faithful executors of the laws and orders of the government in the districts of the state, rendering the most efficacious coöperation to the Executive.”⁵³

One of the best ways to appreciate the extensive jurisdiction of the *jefes políticos* is to examine their annual reports to the state governors. These reports reveal how all-pervading was their supervisory control. Take for example the report of a political chief of the *partido* of Zacatecas (1905). He reported on measures taken to preserve public order, the state of municipal finances, primary instruction, the administration of justice, the ayuntamiento, public health, and public improvements. The report did not go into detail on all these subjects but merely described the status of each branch under his supervision.⁵⁴

The *jefe's* duties in fiscal matters were very important. As the immediate agent of the State Executive he watched over all tax and revenue collections. He reported to the government any failure on the part of the fiscal officials within the *partido*. He was particularly charged to see that all laws relating to the finances were observed. In case of the death of the administrator of rents, the *jefe* assumed temporary control over the funds and archives.⁵⁵

The repository of popular liberty in Spanish countries has always been the municipality. Yet during the Díaz tyranny the

Theories and Practices in Mexico (M.A. Thesis, The University of Texas, 1928), pp. 133–135.

⁵²Del Castillo, *op. cit.*, p. 158.

⁵³*Memoria Constitucional Presentada por el Ejecutivo (Oaxaca, 1883)*, p. 9.

⁵⁴*Memoria Sobre la Administración Pública del Estado de Zacatecas* (Mexico, 1905), pp. 361–363.

⁵⁵*Colección de los Decretos espedidos por el Congreso Constitucional y por el Ejecutivo del Estado Libre y Soberano de México de Marzo de 1870 á Marzo de 1872* (Toluca, 1872), IX, 135–138.

ayuntamientos of all the Mexican Republic were subordinated to the *jefes políticos* and that of the capital to the Governor of the Federal District. Although the Constitution of 1857 did not recognize municipal autonomy, and although the ayuntamientos were somewhat incapacitated because of the Law of Reform which denied them the right to possess or administer real estate, the ayuntamientos functioned with a great deal of competency during the administration of Juárez who was "interested in harmonizing the condition of the Mexican people with a facile system of educational administration of urban interests."⁵⁶ Although Díaz, under the Plan de Tuxtepec guaranteed the independence of municipalities, he destroyed municipal authority and prestige. The ayuntamientos were reduced to the category of simple consultative bodies. Their subordination to the *jefe político*, who was often designated president of the ayuntamientos, was so complete that with most rare exceptions the ayuntamientos could not act without the approval of the *jefes* and these could in all cases undo the acts of the ayuntamientos.⁵⁷

A contributing cause of the loss of self-government in the villages and towns was the alienation of the *proprios*, the lands for municipal support, as well as the *ejidos*, the common lands. Municipal autonomy had been closely intertwined with the ownership and administration of these lands. Since the ayuntamiento was the body which administered them, interest was taken in the election of its members. With the lands gone, there was apathy towards the local elections and the *jefe político* tightened his hold.

Since the *jefe político* was administrator of public lands (*tierras baldíos*) within his district, he was usually the agent entrusted with the task of confiscating the *ejidos*. Many of them were cruel and partial in the performance of this duty. They have been accused of ignoring the claims of the poor Indians and the small property-holders against the powerful hacendados.⁵⁸ This was true, for the government and the hacendados were one, and the poor villagers had no chance. The rapaciousness of the *jefes políticos* became notorious. Very often because of their arbitrary imposts and unjust exactions they proved to be more burdensome

⁵⁶Antonio Rivera de la Torre, *Paralelismo de Hombres y Caracteres: Juárez-Carranza* (Mexico, 1918), pp. 39-40.

⁵⁷Torre, *op. cit.*, p. 41; *Ley de Ayuntamientos, 27 de Noviembre de 1889* (Oaxaca, 1906), pp. 4-10.

⁵⁸Del Castillo, *op. cit.*, p. 31.

to the people than the bandits whom they were very active in suppressing.

The greatest service of the *jefes políticos* to the Dictator was their maintenance of order and the suppression of all subversive movements or manifestations. There are numerous references in the *Memories de Gobernación*⁵⁹ to the activities of the *jefes* in putting down banditry with the aid of the rural police. The famous *Rurales*, or mounted police, were a federal force and therefore not under the command of the *jefe político*. Yet since the *jefe* was to all intents and purposes an agent of the Federal Government, the *Rurales* were always at his disposal. Indeed, they were called his special rough riders. The police powers of the *jefe* were not always confined to the legitimate suppression of banditry. It was his duty to make Mexico safe for the Dictator. He controlled the press, dispersed public meetings, coerced and threatened aspirants to office and critics of the administration, and not infrequently resorted to assassination.

The regular army distributed about the country in fourteen *jefaturas*, was in readiness at all times to support the *jefe político*. This army, a dumping ground for the politically undesirable, was, for the most part, recruited by draft, and the *jefe político* was usually the drafter. This presented him with excellent opportunities for graft, for, with the exception of political recruits, the drafted person could buy another to take his place, but the *jefe's* permission had to be bought.⁶⁰

The *jefe* also derived profit, so it was charged, from the sale of prisoners into virtual slavery in Yucatan as contract laborers. This nefarious practice was exposed by J. K. Turner in his "Barbarous Mexico," a scathing indictment of the Díaz régime. Turner undoubtedly is too sensational and exaggerates, but the general truth of his assertions, if restricted to southern Mexico, may be accepted. He says, "The methods employed by the *jefe político* working alone are very simple. Instead of sending petty prisoners to terms in jail he sells them into slavery in Valle Nacional. And as he pockets the money himself, he naturally arrests as many persons as he can. This method is followed more or less by the *jefes políticos* of all the leading cities of southern Mexico . . . They send their victims over the roads in gangs of from ten to one hundred or even more. They get a special

⁵⁹*Mem. de Gobernación*, 1879, pp. 11, 23, 26.

⁶⁰John Kenneth Turner, *Barbarous Mexico* (Chicago, 1911), pp. 147-148.

government rate from the railroads, send along government-salaried *rurales* to guard them, hence the selling price of \$45 to \$50 per slave is nearly all clear profit."⁶¹ More often, however, the *jefes políticos* preferred to work in conjunction with "labor agents," with whom they split the profits of selling duped contract laborers into slavery. That the authorities were not entirely blind to these abuses is evidence by instructions issued to the *jefes políticos* in the State of Puebla to cease the practice of illegally and forcibly contracting labor for Campeche and Yucatan.⁶²

Francisco Madero proposed to abolish the office of the *jefe político*, but death intervened. But Venustiano Carranza, by decree of December 26, 1914, abolished the *jefaturas políticas* and established the free municipality. In justification of the reform the decree recited:

In consideration of the fact that during the tyranny (of Diaz) the government was systematically centralized, the municipal institution was weakened, and the organization which we have in the Federal States today is only appropriate for the support of an absolute and despotic government. And since the authority of the municipalities is exercised at the will of the first authority of the state, and because of the insupportable practice of the governors in imposing as political authorities persons entirely foreign to the municipalities, who have no other character than as agents of oppression and who are designated as the unconditional executors of the will of the governors, at whose behest they commit electoral frauds, spill blood, steal land, and extort the taxpayers, etc. . . . Thus, in introducing in the Constitution the existence of the free municipality as the political base of the states, there is definitely suppressed the hated institution of the *Jefaturas Políticas*.⁶³

The principles of this decree were incorporated into the Constitution of 1917. In Article 115 we read: "(The states) shall have as the basis of their territorial division and political administration the free municipality Each municipality shall be administered by a town council chosen by direct vote of the people, and no authority shall intervene between the municipality

⁶¹*Ibid.*, pp. 72-73.

⁶²*Memoria Instructiva y Documentada que el Jefe del Departamento Ejecutivo del Estado Presenta al XVII Congreso Constitucional* (Puebla, 1903), 133.

⁶³*Codificación de los Decretos del C. Venustiano Carranza* (Mexico, 1915), pp. 144-146.

and the State government." The states are constitutionally prohibited, therefore, to restore the *jefe político*, the prefect, or similar provincial officer.⁶⁴

⁶⁴For a defense of the autonomous municipality and a condemnation of the *jefe político*, see Miguel Lanz Duret, *Derecho Constitucional Mexicano y Consideraciones Sobre la Realidad Política de Nuestro Regimen* (Mexico, 1931), pp. 329-334.

THE STATUS OF PROVISIONAL GOVERNMENTS IN OKLAHOMA

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Perhaps it is only in a representative democracy, where the departments of governments are supposed to have carefully delegated and defined powers, that a condition, such as the period of "provisional governments" in Oklahoma, could have been created.¹ Unlike the usual history of provisional governments, which are formed for temporary order and protection of life and property, following the overthrow of the established order, the Provisional Governments of Oklahoma were organized to provide protection in the heart of a territory lying within the jurisdiction of an active government, yet one which was inapplicable. These governments were simply extra-legal associations resulting from the necessity of modern man to have some means of understanding whereby he might live with his neighbor.

In the existence of these governments, from April 22, 1889, to May 2, 1890, a unique chapter in the history of governments was written, and one of utmost significance in the development of Oklahoma as a white man's state. In order to appreciate the creation of this period, it is important to recall the policy of the United States Government toward the area comprising the present state of Oklahoma, and long known as Indian Territory, although there existed no politically organized territorial government.

With the Louisiana Purchase the geographical extent of Oklahoma, other than the Panhandle, became a part of the public domain of the United States and a portion of the territory which was later designated for the location of eastern Indians. Prior to the Civil War, the Five Civilized Nations, *viz.*, the Cherokees, Choctaws, Chickasaws, Creeks, and Seminoles, were located in Oklahoma. This land was set aside for the Indians. Westward

¹The term "provisional governments," though misleading, was the best word the creators of these governments could find to designate their organizations. As the term was accepted by the people and spoken of in the court records under the modifying reference of "so-called provisional governments," it is used in both the title and content of this article, although the literal and legal meaning is questionable. 1 *Oklahoma* 188; 1 *Oklahoma* 293 "Extra-legal associations" is a common term used in speaking of this period, and is probably more exact than provisional governments. *Ibid.*

migration passed around it. Few of its inhabitants were even mildly interested in the sectional controversies of the Forties and Fifties. The Indian Nations functioned as separate governments; slaves were a part of their institutions; and life was little affected by the turmoil in Kansas and Nebraska.

Life, however, was greatly changed for these Indian Nations through the Civil War. Allegiance to the Confederacy subjected them to the politics of reconstruction, giving the national government of the United States grounds for the abrogation of the earlier treaties. In the new treaties concluded during 1866, one of the most significant clauses was the cession of land to the Federal Government for the settlement of friendly Indians. Whites were to be excluded.

Indian tribes were rapidly moved into the western part of Indian Territory and placed on reservations under the supervision of Indian agencies. This was the new policy of the Government toward the Indians in Oklahoma; only the Five Civilized Nations were allowed to remain separate and independent governments.

In addition to these changes wrought in Indian Territory by the Civil War, another resulted from a surplus of cattle in Texas. Due to the inability of the ranchmen to get their commodity to market, they initiated the long drives across the territory. During the period of the range cattle industry in Oklahoma, the interest of the white man was awakened in the territory. The Elias C. Boudinot article published February 17, 1879, in the *Chicago Times*, introduced an intense propaganda campaign for the opening of Indian Territory to white settlement. Organized agitation soon took the form of the Boomer Movement, dominated by the picturesque, hero-lauded figure of David L. Payne.

Demand for the opening of Indian Territory was ultimately concentrated on the area known as the Unassigned Lands or Old Oklahoma District. This district, lying in the heart of Indian Territory, and consisting of 1,887,769.47 acres,² as a result of the Boomer and journalistic publicity, became a Mecca of hope, and a near earthly paradise to the American mind.

With the second session of the Fiftieth Congress, it was evident that it was merely a matter of time when majority public sentiment would force the opening of the Oklahoma District. Yet the close of the session drew near and nothing was done. Shortness

²*House Executive Documents*, 51st Congress, 1st session, IX (2724), p. iv.

of time, linked with the popular demand for immediate opening, resulted in members of the House Committee on Indian Affairs attaching a *proviso* to the Indian Appropriation Bill authorizing the President to open the Oklahoma District to settlement immediately in accordance with the Homestead Law. On February 26, 1889, Samuel W. Peel of Arkansas, chairman of the committee, offered the amendment as it had been agreed upon by the committee. The bill passed the House the next day with an insertion by Thomas Ryan authorizing the President to establish two land offices in the district. On March 2, the Indian Appropriation Bill, thus amended, passed the Senate and was signed the same day by President Cleveland.

On March 16, 1889, with the formal agreement of the Seminole Legislature to the removal restrictions on their cession of 1866, the Oklahoma District only lacked the executive proclamation to make it a reality. To complete the action, President Harrison proclaimed, on March 23, the formal opening of the territory to be April 22 at twelve o'clock noon.³

Following the President's Proclamation the Act provided by a clause in section thirteen that the Secretary of the Interior should permit entries of land for townsites under sections 2387 and 2388 of the *Revised Statutes of the United States*. Another clause in the section limited townsites to 320 acres. This section is significant in that the interpretation of the courts held the townsites were not actually opened to settlement by the President's Proclamation, but by the later action of the Secretary of the Interior.⁴ It is further important that entries for townsites, according to the statutes permitting entries, must be made through either municipal authority or the county judge, neither of which could exist without a territorial or state government. Congress had opened the Oklahoma District, but had made no provision for a government, and no other department of government possessed the power to retrieve the omission. For thirteen months, approximately 60,000 people lived in the Oklahoma District without even the semblance of legislative provision for government, and protected only by the jurisdiction of the Federal Government, a few United States troops and the self-initiated provisional governments.

³Richardson, *Messages and Papers of the Presidents*, IX, 15.

⁴196 U.S. 529.

To live without a legalized government, other than within a twilight zone of federal jurisdiction, is an experiment which few would want to make and none to repeat. Yet approximately 60,000 Americans lived for thirteen months in such a status following the opening of the Oklahoma District. Life and property was surprisingly well protected but these men never felt the security, the certainty, nor the confidence in promoting the development of the new territory which an organized government would have given them.

Two alternatives faced the men who entered Oklahoma on April 22, 1889. Either they could establish temporary, self-initiated organizations, whereby they could protect their rights by common sentiment, or they could, through individual effort and force, hold their peculiar settlement in a sort of *status quo* reservation until congress should provide the legal mechanism for organization. In other words they could proceed in an extra-legal manner, develop and grow ignoring the dangers of such procedure, or they could enter into a state of stagnation and depopulation.

To the pioneer, the latter alternative was probably never considered. The opening of the Oklahoma District had been the dream of thousands, and the mere omission of legislative enactment could not retard the individualistic efforts of these pioneers. With characteristic energy the people of the Oklahoma towns began the organization of the provisional governments the evening of the opening.⁵

Under the regime of these extra-legal organizations, cities were built, commerce promoted, institutions established, and business enterprises expanded, but always there was a provoking consciousness of inadequate security. Business men wondered if their shadowy title to the property they were improving would hold. When the provision for territorial organization was enacted, what would be the status of these provisional governments?

The newspapers show that prior to the passage of the Organic Act, providing for a territorial government, May 2, 1890, people were anxious for a government. *The Oklahoma City Daily Times* on December 2, 1889 said:

The Fifty-first Congress convened today. There was never a time in the history of our country when the people looked with greater

⁵Guthrie led in the formation of these governments. Four governments were formed here to stay within the stipulation of 320 acres; these were Guthrie, East Guthrie, West Guthrie, and Capitol Hill.

anxiety for Congress to afford relief than do the 60,000 people of Oklahoma today. We need laws. We need them speedily.⁶

While the *Oklahoma Gazette* as early as the end of the first month of settlement, May 22, 1889, said:

Legislation has been the curse of Oklahoma. On the part of the general government they have what they ought not to do and the law under which the territory was opened is of so ambiguous import, that it has become the fruitful source of numerous contests.⁷

The article might have added that the lack of legislation was the "curse of Oklahoma." After the opening of Congress, a petition circulated through out the territory read:

We, the citizens of Oklahoma, resident and property owners, without expressing any preference for any proposed legislation now pending, do most earnestly request and urge that Congress act promptly and, without delay, give us a territorial government.⁸

This prayer had the tone of hopelessness and discouragement.

During the fall and winter following the opening, numerous conventions were held to draw up memorials to Congress requesting a territorial government and outlining the needs of the people.⁹ Scarcely a group of men met but that territorial organization was the topic of the conversation.

Concern over the necessity for organization in the territory was not limited to citizens of the district. From a standpoint of protection of life, the provisional governments had been commandably successful, but there were many factors to be considered other than protection. President Harrison in his annual message to Congress, December, 1889, in referring to this period of provisional government in Oklahoma, gave his reason for the opening of the territory as a matter of public policy. In his words:

⁶Vol. I, No. 133.

⁷Vol. I, No. 2.

⁸*Norman Transcript*, Vol. I, No. 6, Nov. 30, 1889.

⁹On September 11, 1889, at the convention held in Frisco a memorial was drawn up and sent to Congress, *Oklahoma City Daily Times*, Vol. I, No. 63; on October 19 a convention was held in Oklahoma City, *ibid.*, No. 101; on November 13 a second convention met in Oklahoma City to consider the question of townsites, and sent a memorial to Congress, *ibid.*, No. 118; early in January, a mayor's convention met in Purcell, *Norman Transcript*, Vol. I, No. 12. Many other conventions were held; further details of these memorials and conventions may be found in *Senate Miscellaneous Documents*, 51st Congress, 1st session, II (2698); *House Reports*, 51st Congress, 1st session, I (2807), 29.

I was quite reluctant to open the lands to settlement; but in view of the fact that several thousand persons, many of them with their families, had gathered upon the borders of Indian Territory with a view to secure homesteads on the ceded lands and that delay would involve them in much loss and suffering I did on the twenty-third day of March last issue a proclamation that the lands therein described would be opened to settlement under provisions of the law, April 22 at 12 o'clock noon.¹⁰

Later in the message he compliments the American genius for self-government as illustrated in Oklahoma:

But it is neither safe nor wise to leave these people longer to the expedients which have temporarily served them.¹¹

A similar report given to Congress, December 3, 1889, by J. W. Noble, Secretary of the Interior, voiced the approval of the department in the ability the people of Oklahoma had demonstrated in conducting a government without legislative authority. However, he deplored the fact that this had been necessary because he feared there would be considerable controversy relative to land titles and municipal status. It was in this respect, he said, that the greatest evil had been done.¹²

This fear on the part of the Secretary was not groundless. At the land office of Guthrie¹³ there had been, by December, 1889, thirteen applications for townsites, while at Kingfisher there had been seventeen, or a total of thirty applications. Eight of these were rejected by the committee of the General Land Office due to the gross informality and inadequacy of the applications. This left twenty-two townsites, which, under the act of March 2, 1889, could enter land for townsites.¹⁴ An excerpt from the *Douglass (Kansas) Tribune*, published November 30, 1889, states that 5,400 of the 6,000 quarter sections in the Guthrie land district had been filed upon, leaving, in round numbers, 600 vacant. Records show there had been 5,804 entries filed; the difference between the number of claims was the number relinquished. On this same date there were in the Guthrie office alone 1,051 contests filed.¹⁵

But in the face of all these informalities and contests, men were daily improving their homesteads, and expanding the townsites.

¹⁰Richardson, *op. cit.*, IX, 47.

¹¹*Ibid.*, 47.

¹²*Report of the Secretary of Interior*, 1889.

¹³Two land offices were established: one at Guthrie, the other at Kingfisher, Richardson, *op. cit.*, IX, 15.

¹⁴24 Stat. at L., c. 814, sec. 2387, 2386.

¹⁵*Norman Transcript*, I, 6.

The situation in the rural districts was serious,¹⁶ but it was in the towns that the most precarious situation existed.¹⁷ Not only was a government necessary for the territory, but the status of the established governments had to be determined.

This was no small concern for a legislative body to face. In addition to the question of locating townsites¹⁸ there was the problem of providing government for approximately 60,000 people, with three towns containing a population of 16,000. Guthrie claimed a population of 8,000, Oklahoma City 5,000, and Kingfisher 3,000.¹⁹

There was by this date in the so-called territory twenty-two schools, thirty-eight churches, twenty-two newspapers and numerous business enterprises, wholesale and retail, in addition to the farming industry. In the larger towns, municipal governments had been organized by the voluntary action of the citizens. Without legal status, they were functioning as regular local units. Public utilities had been introduced and local and civic debts incurred. For five months Congress considered the question then passed the Organic Act of May 2, 1890, which provided for the organization of the Territory of Oklahoma.²⁰

By section 11 of the Act, the laws of Nebraska were extended over Oklahoma Territory in so far as they did not conflict with any law of the United States. Under these laws, provision for municipal government was made.²¹ This raised the question of what constituted a municipal corporation? What was the status of the so-called provisional governments which had existed between April 22, 1889, to the passage of the Organic Act, May 2, 1890? By the Organic Act were these provisional towns automatically created *de facto* municipal corporations?²²

¹⁶Under the Homestead Law the first steps toward filing could be taken by the rural pioneer.

¹⁷No step toward obtaining a legal title could be officially taken until there was a territorial organization, see sections 2387, 2388, *Revised Statutes of United States*.

¹⁸26 Stat. at L., 109.

¹⁹Report of Secretary of Interior, 1889.

²⁰Chapter 182, 26 Stat. 81; or 26 Stat. at L. 85.

²¹*Ibid.*

²²Considerable argument arose as to whether the provisional governments automatically became *de facto* corporations after the passage of the Organic Act. *Infra.*

In the United States, towns are public corporations, created by state or territorial legislature for political purposes, with subordinate and local powers of legislation. In other words, they are but sub-divisions of the state or territory formed for the convenience and better government of that superior power's affairs through local officers. The rights of a municipality, its powers and duties are all creations of legislative enactments. The subordinate political divisions exist and act in accordance to the sovereign power which originates them. Legislation determines their names, the taxes they may raise, and their expenditures.

Under the sovereign government, two types of municipalities may exist, namely, *de jure* and *de facto*. Under the class of *de jure* are those which by legislation exist legally with correct formalities of creation, charter and organization. In contrast to this class are the *de facto* municipal corporations which through some irregularities exist only in the color of law. A *de facto* corporation, however, cannot exist where there is no legal status for municipalities because there is no vague zone which may be classed as "in the color of the law." Without law, then, there can be no *de facto* corporation.²³

Following this line of reasoning, without law in Oklahoma Territory from April 22, 1889 to May 2, 1890, for territorial government, there could be no *de jure* corporations, and without *de jure* there were no *de facto*. Therefore, the towns which styled themselves

provisional governments were merely aggregations of the people who out of necessity in the absence of legal authority had associated together for the purpose of mutual benefit and protection. They were through this association carrying on the law and government common among civilized people and were enforcing them by public sentiment. But legally they were without existence, merely nonentities which could not bind themselves by contract or bind anyone else.²⁴

Later judicial opinion pointed out that they were morally bound, but that no obligations could be enforced upon them.²⁵

Accepting the long established rule that municipal corporations cannot exist either *de jure* or *de facto* without legislative authority, the provisional towns were only voluntary associations of people. With the passage of the Organic Act, a sovereign civil

²³Dillion, *Municipal Corporations*, Q. 37.

²⁴Guthrie National Bank v. Guthrie, 173 U.S. 528.

²⁵City of Guthrie v. Territory, 1 Oklahoma 188.

government was formed to supply the authority for constitutional municipal governments. The next issue was whether these provisional towns of Oklahoma were automatically created *de facto* municipal corporations.

This question was first answered, in 1893, in the affirmative, when the Supreme Court of Oklahoma Territory in the case of *Blackburn v. Oklahoma City*²⁶ said:

The Act of Congress, May 22, 1890,²⁷ made provisions for the organization of *de jure* municipal corporations; and the provisional government of Oklahoma City became from that date and after a *de facto* corporation.²⁸

The above opinion was the basis of all the court decisions and business proceedings until 1896, when the Supreme Court of the Territory reversed its earlier opinion, and in the case of the *City of Guthrie vs. Wylie* said:

The passage of the Organic Act, May 2, 1890, making provisions for the organization of municipal corporations by adopting and putting into force the statutes of Nebraska in Oklahoma did not *en instante* convert the so-called provisional governments into municipal corporations; but the provision of the said statutes relating to the organization of villages, requiring the majority of the taxable inhabitants of such villages to present a petition to the county commissioners of the county in which the village was situated, praying that they may be incorporated into a village designating the names they wish to assume, and the metes and bounds of the proposed villages, requiring the said committee to enter an order of incorporation upon the records designating the metes and bounds thereof and declaring the respective villages incorporated and appointing trustees therefore were conditions precedent to vesting any municipal authority in the proposed villages.²⁹

In referring to this case the *Daily Oklahoma State Capitol* of Guthrie made the statement:

Among the important cases handed down by the Supreme Court was the case of the *City of Guthrie v. Wylie*. . . By this decision the earlier provisional cities are exempt from any liabilities which had been theirs under the earlier decision.³⁰

With this last decision, the status of the provisional governments was established as voluntary associations of people for the

²⁶1 *Oklahoma* 293.

²⁷Chapter 182, 26 *Stat.* 81; or 26 *Stat. at L.* 85.

²⁸1 *Oklahoma* 293.

²⁹1 *Oklahoma* 293; 6 *Oklahoma* 61.

³⁰Vol. 8, No. 105, Sept. 4, 1896.

mutual benefits which such political and social organizations afford modern society. They, however, did not become *de facto* corporations until the formal legislative requirements were at least attempted. But prior to acquisition of legal status, they were operating as municipalities, incurring debts, and making contracts. Under a *de facto* government a city is liable for debts and contracts, but under the provisional governments this question of indebtedness and contractual agreements was entirely different. There was no legal status whereby the corporations could be held liable other than through the moral obligation whereby individuals could be held respectively but not the corporation.

Concerning municipal liabilities, a number of cases were tried before the Territorial Supreme Court testing the status of the indebtedness which had been contracted by the provisional governments. The first territorial legislature saw the danger of these debts never being paid and during the first session passed an act whereby the legislature ruled that a certain per cent of the taxes should be devoted to these obligations. This act gave rise to the question of the constitutionality for such a provision.³¹

In 1892 in the case of Guthrie v. the Territory,³² the court decided that, as the provisional organizations had no legal existence, they could not bind themselves by contract, but that the legislature had the power to make provisions for the debts contracted.³³ The following year in the case of Blackburn v. Oklahoma City, the court ruled that the original provisional municipalities could not bind themselves or their successors by agreements, but after May 2, 1890, these governments were *de facto* and after that date were bound by their contracts.³⁴ A similar opinion was expressed in the City of Oklahoma City v. the T. M. Richardson Lumber Company in 1895.³⁵ On September 4, 1896 the Supreme Court, in the City of Guthrie v. W. D. Wylie, stated that "the so-called provisional City of Guthrie was not a *de jure* nor *de facto* municipal corporation and had no power to contract or bind itself or others."³⁶

By these decisions there was a general agreement that the municipalities were not liable for contracts and indebtedness

³¹ Stat. of Okla., c. 14, p. 146. *Infra*.

³² Oklahoma 188.

³³ Oklahoma 292.

³⁴ Oklahoma 5.

³⁵ Oklahoma 5.

³⁶ Oklahoma 61.

during the period of provisional organization, but there was a difference of opinion as to whether there was a moral obligation. In the earlier cases, the moral claims were recognized but not as a municipal responsibility—rather as a legislative one. If the responsibility were legislative, then there was only one way for the government to meet such obligations and that was through taxation.

The first legislature of Oklahoma assumed these obligations of the provisional governments and passed an act, December 25, 1890, which provided a means whereby taxes could be raised to care for the contracts.³⁷ The Act applied to Guthrie specifically, although it was sufficiently broad to be applicable to other localities of a similar class.³⁸

During the years between 1896–1899, court opinions tended to deviate from the idea of recognizing a legislative responsibility. The question, however, was finally settled in the Supreme Court of the United States, April 3, 1899, in the case of Guthrie National Bank v. City of Guthrie.³⁹ The court decided that the Act of December 25, 1890 of the territorial legislature providing a method by which to raise the necessary funds to pay the indebtedness incurred by the provisional governments of certain cities was within the power of the territorial legislature and that it had the power to compel any of its political sub-divisions to recognize claims founded upon equity and justice, although not of legal obligation, but where it was a plain moral duty.⁴⁰

By this decision, the Supreme Court of the United States recognized the doctrine of retroactive powers of a legislature to make good the contractual obligations of the early governments of Oklahoma. Under ordinary circumstances such a provision is not possible, but the Supreme Court acknowledged the abnormal existence of these provisional governments and made it possible for the territorial legislature to make good these contracts. Under the peculiar conditions of the local governments of Oklahoma Territory, such a decision was reasonable and even commendable.

A further question of serious consideration was the status of the provisional governments' systems of taxation. No mode of legalized taxation was possible prior to the Organic Act; then,

³⁷1 Stat. of Okla., c. 14, p. 146.

³⁸This specific reference gave grounds later for the act to be contested as unconstitutional as legislation for municipalities must be general.

³⁹173 U.S. 528.

⁴⁰*Ibid.*; 1 Stat. of Oklahoma, 146.

the latter Act did not provide for a method of taxation other than the clause stating that a territorial legislature could appraise property and establish a system of taxation. It was not until December 25, 1890, that the legislature appointed a commission to investigate municipal indebtedness and to create a system whereby a tax could be levied.

Chapter 14 of this Act provided that a tax should be levied in Guthrie caring for the indebtedness of the provisional government.⁴¹ In 1892, in the case of the City of Guthrie v. the Territory, it was contended that the above mentioned Act was in conflict with the Act of Congress, July 30, 1886, limiting the excess of taxation to four *per centum* of the assessed valuation of taxable property.⁴² By this legislation, Congress had limited the taxation of municipalities, but did it limit the state or territorial legislature, or merely the powers of the town?

In deciding this issue, the court ruled, in 1892, that this was only a limit on the municipal governments and not on the legislative authority of the territory. As a municipal corporation is a creature of the territory or state for the furthering of the order and purposes of the superior authority, the court decision meant that the legislature had the right to provide a means whereby the early obligations of the provisional governments could be met.⁴³

Although the provisional governments served an essential purpose in protecting the people who entered the territory on April 22, 1889, they were, nevertheless, as has been demonstrated, the cause of litigation which extended over a period of ten years, and cases, even to the present, are complicated by questions arising from these early governments. In deciding the status of these governments, peculiar precedents were established, and there were interesting applications of equity and morals.⁴⁴ Gradually the decisions relating to the status of the extra-legal governments made them more than nonentities, although the legal definition remained the same.

⁴¹1 Stat. of Okla., c. 14, p. 146.

⁴²24 Stat. at L. 170.

⁴³1 *Oklahoma* 188, The case of City of Guthrie v. New Vienna Bank (4 *Oklahoma* 194) opposed the opinion, but in 1899 the Supreme Court of the United States (196 U.S. 529) reverted to the earlier decision.

⁴⁴The question of land suits was so controversial that Congress passed a special act on May 14, 1890, providing for the settlement of these contested townsites. (23 Stat. at L. 109.) This legislation placed land suits under a special law, and they do not belong to a general survey of the status of the provisional governments.

To say what has been the significance of these provisional governments would be impossible; the period is still too near us; however, certain observations can be made, which are, perhaps, flavored with prejudice. In observing the influences exerted by these provisional governments, two general effects may be ascertained. The first is upon the individual himself and his attitude toward the importance of the local units; the second, the so-called radicalism of the Constitution of the State of Oklahoma. A third influence, though closely associated with the first, might be mentioned, namely: the aggravation of the tendency for urban and rural communities to consider their interests absolutely different.

During the provisional governments' existence, the individual within the town, was the nucleus of association. Organization did not exist by prior legislative stipulation which extended the state contract⁴⁵ over the individual, rather the individual entered independently, or in self-associated combinations,⁴⁶ and it was through the mutual and voluntary consent of these individuals that the provisional contracts were formed.⁴⁷ Political democracy was enacted directly, and specifically, locally.

Temporary associations formed immediately after the opening became permanent with the adoption of charters and second elections.⁴⁸ Provisional governments became central associations of interests. Politics were divided along individual and specifically local lines, of the particular community, rather than national or territorial. The provisional governments of Oklahoma City, Guthrie, Kingfisher, or any of the other towns⁴⁹ were lauded,

⁴⁵Used in the philosophical sense.

⁴⁶For example, the townsite companies. The two most famous were the Seminole Townsite and Improvement Company incorporated under the laws of Kansas, and the Colony Company, later known as the Oklahoma Company, unincorporated, but nevertheless effective. The rights of these companies may be found in 8 *L. D.* 425. Both of the above mentioned land companies settled in Oklahoma City, and the rivalry between them is known as the Seminole-Kickapoo War.

⁴⁷1 *Oklahoma* 188.

⁴⁸In each of the towns, temporary governments were organized a short time after the opening, at which time provisions were made for second elections and organizations. The cosmopolitan character of some of these gatherings is significant. In the first meeting at Guthrie, 32 states and territories of the United States were represented, and two foreign nations.

⁴⁹The towns of Oklahoma City, Guthrie, and Kingfisher are spoken of collectively. In order to keep within the letter of the law, which limited all townsites to 320 acres, Oklahoma City comprised Oklahoma City and South

placed paramount to any other government, and boomed in the eyes of the settlers as the future metropolis, or capital of a future state. Rural communities were considered in so far as they might contribute commercially. A sense of segregation and difference between the townsite-seeker and the homesteader developed into a vivid consciousness. It may be said that one was more nearly the nineteenth century American pioneer, who hoped to reap wealth from the soil; the other, the modern speculator, the get-rich-quick urbanite, who might be classed as the twentieth century pioneer, the person who hoped to reap wealth from the artificial productions of urban and industrial civilization and hidden natural resources.

The organization of a territorial government did not obliterate the individualism of the provisional governments. It gave them a consciousness of a superior governmental security, but it also contributed to a sense of diversity. It was a union based on confederation, democratic and, in many respects, socialistic. The product is a white-collared, blasé business man of Rotatarian aspirations, who meets with perfect poise from eight to three any commercial aristocrat, at night cheerfully and happily crawls into overalls to hoe the garden or mow the lawn, perhaps goes to the opera or an elite bridge party with the wife, and in politics is ready to applaud any damogogue who speaks his local and commercial interests, but is just as quick to impeach the same individual. Inconsistently the pioneer in politics, he is commercially the rival of national business and a force to be considered.

Within the constitution of the state the same elements of independence are felt and expressed in the spirit which lay back of the inauguration of the initiative, the referendum, the recall, and the easy amendment of the document.⁵⁰

The spirit beneath state politics today is still a spirit of confederation rather than federation. In lumping Indian governments, Indian reservations, homesteading pioneers, provisional

Oklahoma; Guthrie included Guthrie, East Guthrie, West Guthrie, and Capitol Hill; Kingfisher was divided into Kingfisher and Lisbon. Each of these divisions had its own provisional government. Where there was a law, the pioneers were careful to observe it, although they were proceeding in an extra-legal manner, they were determined to do nothing illegal.

⁵⁰This spirit cannot be said to have been exclusive to Oklahoma, but was the rising spirit of radicalism typifying the age. Conditions in Oklahoma only fanned this spirit, and gave a greater opportunity for expression. It has been rather an irony of fate that these once-considered-radically-democratic-provisions have proved almost boomerangs of conservatism.

governments, the bad man's communities, the cattlemen, and the territory which the government did not know where else to incorporate,⁵¹ under one name and government, unity was not achieved. It can only be attained by time and new generations. In making Oklahoma preëminently a white man's state, the omission of Congress in providing adequate territorial organization with the opening, and the necessity for the provisional organization, has been one of the most persistent forces of diversity. How easy it is for an eighty-niner to say, "We once got along without interference," forgetting the months when he longed for territorial order.

⁵¹"No-Man's-Land," as the territory lying between the 100th and 103rd meridians, and the 36th degree and 30 minutes, and 37th parallels was called.

THE DEVELOPMENT OF COÖPERATIVE SOCIAL RE-
SEARCH IN LEADING NORTHERN UNIVERSITIES;
AND ITS STATUS IN COLLEGES AND UNI-
VERSITIES OF THE SOUTHWEST¹

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For a decade or more, research workers in leading American universities have voiced a growing conviction that few real social problems, even of purely theoretical interest, can be adequately solved within the narrow limits of a single traditional department or field of specialization. They have pointed out that most social problems have a way of splitting up into sub-problems, some of which should be handled perhaps by economists, some by biologists, some by sociologists, and so on. Clear light on any such question appears only when all of these joint solutions are combined.

This point of view evidently calls for some kind of coöperative research between different departments and different institutions. As a consequence, a number of tentative efforts at combined research have been made in various colleges, and frequently more or less formal organizations have been developed for the purpose. Four outstanding cases may be briefly described.

Yale University has in its Institute of Human Relations probably the best known and most thorough-going organization yet set up for coöperative social research. The functions and methods of the Institute are concisely stated in a descriptive bulletin: "First, the Institute building provides the physical means for that free inter-communication essential to coöperative endeavor. . . The building is equipped with dining and club rooms which are used to promote informal contacts and group discussions.

"The coördination of research is further promoted through a central record and statistical bureau where data from diverse sources are collected and made available for study. . . .

"Another function of the Institute is . . . the portrayal of a general outline of human behavior. . . . From such a pattern areas may be selected for concerted and coöperative investigations, while other areas may be profitably explored through a single approach.

¹Adapted paper read before the Sociology Section of the Southwestern Social Science Association meeting at Dallas, March, 1932.

It will enable all members to see more clearly the common purpose and mutual inter-relationships of widely diverse areas, and yet conserve and promote that independence and individual initiative which is recognized as essential in scientific investigation.

"The Institute of Human Relations . . . is made up of members of the University who are active in research in the biological and social sciences and can promote the synthesis of knowledge for which the Institute stands. . . . The Institute as such has no administrative control over any University divisions, but serves simply to stimulate research in the fields of human behavior and to coördinate the activities of the University bearing upon these fields. The affairs of the Institute are in the hands of the Executive Committee. . . .

"... After having been admitted to one of the schools of the University, properly qualified students may be permitted to enroll in one or more of the research seminars conducted by members of the Institute staff, or they may do research under the immediate direction of a staff member. . . .

"... All research activities in biological and sociological fields, however independent in origin, conducted by members of the University who have an avowed interest in the aims of the Institute, are properly considered a part of the Institute's research program. . . .

"... the Institute is particularly interested in forwarding investigative projects in which several types of approach are involved, including the study of the fundamental physiological and psychological mechanisms of behavior, the situational or environmental approach, and the historical approach. Inasmuch as the failures of man to make satisfactory adjustments to his environment constitute pressing problems from the social point of view, and at the same time afford data not readily available where adjustments are satisfactory, attention is being focused in the first projects upon areas in which there are such evidences of failure as disease, poverty, unemployment, and crime."

At Harvard University, Dr. Pitirim Sorokin, replying to an inquiry of the writer, gave this statement: The "Department (of sociology) is organized in such a way that most of its members belong at the same time to all these departments and schools (*i.e.*, sociology and rural sociology, political science, history, economics and rural economics, psychology, biology, education, law, medicine, etc.). Besides, we have a special Harvard committee for

economic and sociological research, in which these two departments are formally and factually working together. After next year it will be expanded and the departments of government, history, and other social sciences will join it also.

"The Department (of sociology) has a big project, in which, under the Department's responsibility, are participating members of many departments."

At the University of Chicago, sociology is now a department in the newly organized division of social sciences. Coöperative research was reported under way between members of the department of sociology, between the department of sociology and the department of political science, and between a number of other departments and with other institutions. The whole matter of coöperative social research is in charge of a social science research committee.

Finally, from the University of Minnesota, Dr. F. Stuart Chapin wrote: "Within the University there is a social science research committee which is composed of representatives of the following departments—sociology, rural sociology, political science, history, economics, and rural economics, and in addition geography and some fields of agriculture."

According to Dr. Chapin, almost every possible combination of coöperative research is in progress between the various social science departments and between other departments, schools, and institutions. Such coöperative research, he said, is "encouraged and very active all along the line."

Since the above inquiry was limited to four highly selected institutions, no inferences are to be drawn regarding the development of coöperative social research in northern universities in general. A fairly representative report may be made, however, of the status of coöperative social research in southwestern universities and colleges.

Fifteen institutions replied to a questionnaire on this subject, namely: Tulane University, Texas Christian University, New Mexico College of Agriculture and Mechanical Arts, Southern Methodist University, Louisiana State University, University of Kansas, University of Oklahoma, The University of Texas, University of Missouri, University of Arkansas, Texas Agricultural and Mechanical College, University of Colorado, University of Denver, Kansas State College, and Oklahoma Agricultural and Mechanical College.

Of these fifteen institutions, eleven had no organization of any kind to promote coöperative research. Of the four replying affirmatively to this question, one had a Social Science Organization, another had a Research Club, and a third had a Social Science Faculty Discussion Group. At two of these colleges the organizations mentioned were recently formed, and no coöperative research was under way. The University of Texas, however, reported a well-established and functioning organization actively carrying on coöperative research in the social sciences.

Only four of the southwestern or western institutions reported any coöperative research between the department of sociology and other departments; and a like number reported such research between the department of sociology, chiefly rural sociology, and other institutions. As might be expected, a somewhat better showing was made between sociologists in the same department, this type of joint research occurring in over one out of every three of the colleges. It should be mentioned, however, that in three of the total of six cases so reporting, the coöperators were in departments of rural sociology.

Six of the institutions questioned confessed to no coöperative research of any sort. Another seven claimed some in the same social science department. The number reporting combined efforts between social science departments in the same institution, and between different institutions, was seven in both cases.

As a rule, the amount of joint research in progress was said to be slight. The comment also indicated that the quality of this research left much to be desired. On the other hand, a recognition of the importance and need for coöperative research was surprisingly general.

To the writer, the above findings indicate that most southwestern universities are just beginning to feel the contemporary urge to coöperative research, and are making the first readjustments toward the development of organized efforts in that direction. There are reasons to believe that the universities of this country are entering upon a new era of effective research, and that those of the southwest will participate in the advance.

DOCUMENTS

AN UNPUBLISHED MEMORANDUM OF THORSTEIN VEBLEN ON GOVERNMENT REGULATION OF THE FOOD SUPPLY

In February 1918, Thorstein Veblen was made a special investigator of the statistical division of the Food Administration. In this capacity he made reports on using the I. W. W. to harvest grain; on extending the principles of the mail order house, chain store, parcel post and Federal Reserve System, to get rid of the "parasitic" country towns, and thereby increase the available farm labor supply. More statistical in nature was his memorandum "A Schedule of Prices for the Staple Foodstuffs." This report was the outgrowth of a study which Isador Lubin, his assistant and former student at the University of Missouri, made of the effects of government price fixing on the small grains not affected by price stabilization.

The records of the Food Administration do not contain Veblen's memorandum, but a carbon copy was dug out of a barrel in a garret in Washington, D. C., which Lubin (now with the Brookings Institution) used for such memories. He kindly allowed the author to use it as he saw fit in connection with a life history of Thorstein Veblen.

In the following pages the memorandum is printed in full except that the tables and charts which are not essential to Veblen's argument, have been omitted.

JOSEPH DORFMAN,
Columbia University.

MEMORANDUM

A Schedule of Prices for the Staple Foodstuffs

(With accompanying tables and charts.)

Price control appears to be the only practical means of regulating the supply of foodstuffs in America. Admonition and advice are likely to be less and less effective for this purpose as time goes on; and no direct coercive control of production would be practicable in this country. At the same time it is desirable to limit the control of prices to as few items as may be, and to adopt a consistent scheme of regulation for the items whose supply it seems necessary to control.

The underlying purpose of any such regulation is the more effectual prosecution of the war; and the first consideration, therefore, is the supply of foodstuffs to the European Allies. Any practical schedule of prices will accordingly have to be drawn with a view primarily to this requirement. The price control will aim to take care of the main staples required by the Allies, and regulate the prices of other articles only so far as may be unavoidable in taking care of these main staples. This will mean that prices are to be regulated with a view to the supply of grain and meat; and of the grains and meat products, wheat and pork will come in for the chief consideration; wheat because it is the largest and most urgently needed item of the food supply; pork because it can be produced at a lower cost and handled more expeditiously and with less waste than any other available provision of meat and fat.

Hence a price schedule for the control of the American food supply will be based on the requirement of wheat and pork, and will be so drawn as to favor the production and conservation of these two staples. With this primary requirement in mind, it seems expedient to set up a schedule of prices covering three main classes of items: (a) the main staple farm products,—to include Wheat, Corn, Barley, Rye, Oats, Potatoes, Pork, Beef, Mutton, Eggs, Butter, Cotton, and Tobacco; (b) staple articles of import which compete with these domestic products,—to include, Sugar, Fruits, and Edible Oils and Fats; (c) the main staple articles of use on the farms,—to include certain standard items of Farm Machinery and Vehicles, Lumber, Fence Wire, Nails, Binder Twine, and perhaps Soft Coal and Gasoline.

Minor staples of import or of domestic production,—as *e.g.*, Rubber, Resins, Hides, Truckfarm Products, Milk, Flax, Peanuts, and the like—may call for regulation on other grounds; but for the Food Administration articles of this general class are of secondary interest and had best be left out of control; partly to afford a free market by observation of which the general level of prices for the main staples can be intelligently readjusted from time to time, and partly to afford a fluctuating margin of employment for such lands and farm work as are not altogether suitable for use in the production of the main staples. There is also the practical reason for leaving such an unregulated margin of minor staples, that it would be extremely difficult to control so scattered and variable a volume of items in any satisfactory way.

Of the three classes of items named above, as being properly subject to regulation for the purposes of the Food Administration, only the first named—the main staple farm products—come directly under the jurisdiction of the Food Administration; the other two are under the surveillance of other branches of the government, and the Food Administration can influence their control only by way of criticism and advice. In effect, the Food Administration will at best be able to set up and carry out a systematic control of the main agricultural staples only, and will have to adjust its control of these staples to the circumstances of the case; prominent among these conditioning circumstances being the dealings of these other organs of government with the other staple items whose competition in the market affects the prices of the agricultural staples. The immediate care of the Food Administration, accordingly, will be the staple farm products, but with a constant regard for the course of prices in those lines that come into relation with the staple foodstuffs, whether on the side of their production or on that of their sale.

It is evident that no rigid and invariable schedule of prices can be adopted, once for all. The seasons vary greatly, and their variation never affects all crops equally. Any schedule will necessarily be subject to revision from time to time to meet the varying conditions of demand and supply. It follows that in effect, any practicable schedule will take the form of a schedule of price ratios covering the items to be brought under control, drawn with reference to a chosen base and subject to revision as the changing conditions of production may require.

Concretely, to meet these requirements, it is here proposed that the price of wheat during the pre-war years 1911–1914 be taken as a base and reckoned as 100, while the prices of the other staple farm products already named will fall into a series of relative prices taken from the same period and reckoned in percentages of the price of wheat; so giving a series of price ratios or index numbers, to serve as a normal level from which variations will be made to meet special conditions. The general advance of prices that has taken effect during the period of the war will be met by using the ascertained ratio of this general advance as a coefficient to be multiplied into each of the several ratios or index numbers included in the schedule; so raising the general level of prices for farm products by a uniform increase throughout the list. Special disturbances, affecting any given item, such as

seasonal variations of supply or demand, will be offset by individually weighting such items in the list as may require it. While special inducements to an increased production of articles that are urgently needed, as, *e.g.*, wheat or beef, may be brought to bear by means of a similar weighting of the corresponding index numbers of the schedule.

It will be seen that this schedule of relative prices is designed to serve as a basis for the continual readjustment of prices to meet varying conditions, rather than a rigid scale to be adhered to in the face of changing conditions. The schedule will also vary from one place to another, by a system of differentials designed to cover differences of nearness to the market, and similar factors that effect the supply; very much after the fashion of the differentials now in use in regulating the price of wheat in different markets under the direction of the Grain Corporation. The result will be a series of price schedules for different markets, but all related to each other through being derived from one base,—the schedule of price ratios first spoken of above. Whenever it is desired to change the level of price for any given item—as, *e.g.*, wheat or pork—to encourage or discourage its production or consumption, relatively to the other foodstuffs, these several scales of prices in the local markets can accordingly all be altered at the same time and with a uniform effect by changing the coefficient assigned to the given item in the underlying schedule of price ratios on which the several local schedules are based. The effect of any such change in the underlying schedule of ratios will run uniformly through the entire range of special price schedules, and so maintain an effectual equality of prices throughout the various markets that are to be kept under control.

In so varying the price of any or all of the foodstuffs included in the schedule, there are other circumstances to be taken account of, besides the variations of the seasons and the changes in the export demand; notably changes in the general level of prices, on the one hand, and changes which specially affect the cost of production of the crops, on the other hand. The general price level for the staple foodstuffs will be kept by means of a running reference to (a) the current prices of the uncontrolled foodstuffs, as shown in the price bulletins of the Food Administration's Statistical Division, and (b) the current price reports of the War Industries Board; while the main variations in cost of production specifically bearing on the production of staple foodstuffs are similarly shown (a) in the bulletins of farm-wages published by

the Department of Labor, and (b) in the price-lists of manufacturers of farm machinery, as well as in the bulletins of the Federal Trade Commission covering farm machinery.

What has been said above bears on the running adjustment of the prices of staple foodstuffs to the current conditions of demand and supply; and the data underlying the argument so far are shown in the subjoined Tables (-----), with accompanying Charts. But in addition to such a running adjustment, it will also be incumbent on those who have charge of this price regulation to take care that a sufficient supply of the staples is produced. To this end the farmers should be relieved of the risk of loss due to crop failures or to unforeseen losses of livestock due to drought, hard weather, or disease. As far as practicable the risk of loss should be borne by the nation as a whole,—on the well-known principle of mutual insurance. The crop failure in North Dakota in 1917, and the extent to which that misfortune has crippled the farm industry of that state for the current season of 1918, goes to show how serious a mistake it is in the present emergency to let the risk be carried by the individual farmers rather than by the community at large. In the present emergency the production of foodstuffs is quite unmistakably a joint enterprise for the prosecution of the war, and it is imperative that the enterprise should be managed on that basis.

To remedy mischiefs of the class shown by the case of North Dakota, and to offset the discouragement which such a risk of loss always gives rise to, it is necessary to provide beforehand for shifting such risk from the individual producer to the community at large. So far as concerns the main staple foodstuffs this can be done in a passable fashion by guaranteeing the farmers a suitable minimum return per acre of the crops planted, and perhaps a similar insurance per head of livestock in hand at the opening of the season. As is well known the cost of production of the staple crops in American farming is much more nearly proportioned to the acreage than to the total yield; whereas the market value is proportioned to the total yield. The details of any scheme for crop insurance on the basis of acreage will vary somewhat from one place to another, but the general principle will be much the same. As in the case of the market price of the grains, so here it is proposed that a basis on which to compute a practicable minimum per acre may best be found in the value per acre of the various crops in the various localities concerned, during the three years preceding the war. In this connection it may be noted that

the three-year average—1911–1914—coincides closely with the longer, nine-year average, 1909–1917. (See Table ____ and accompanying Chart ____.)

For the staple grains, therefore, it should be advisable to set up a schedule of guaranteed minimum returns per acre, to vary from place to place to correspond with the varying conditions of production, but sufficient to relieve the producers of the hazard of loss. Details of method in adjusting such a schedule of guaranteed returns are a matter for advisement between those who will have charge; so also questions of what items are to be counted in as elements of necessary cost, to be covered by the guarantee. So, *e.g.*, the question will come up: How far, if at all, is the rental value of the land to be counted as an item of cost for this purpose?

In like manner the production of the staple meats should be covered with a suitable guarantee against unforeseen loss. This may prove a more delicate matter to arrange. But with the help of the Bureau of Animal Industry a sufficiently effective method of procedure can doubtless be devised. It is suggested that the control at this point should best proceed on a census of the live-stock population to be taken at the beginning of the crop year.

At this point comes in the close relation which always subsists between the American production of Pork and Beef and the Corn Crop. Much of the pork and beef supply, but more particularly the marginal portion of this supply, comes as a virtual conversion of corn into meat and fat—somewhat at the discretion of the farmer. So much so, that men of experience in this matter—as, *e.g.*, in the Bureau of Animal Industry—have been at pains to work out coefficients, or ratios, governing the proportion between a given increase in the supply of pork or beef and the increased consumption of corn necessary to such increased production. At this point, therefore, the price schedules for the grains and the meats come into necessary correlation; so that the supply of the staple meats comes to be a prime consideration in adjusting the price of corn and fitting it into the price schedule of the staple grains.

BOOK REVIEWS

EDITED BY O. DOUGLAS WEEKS

The University of Texas

Development of the League of Nations Idea, Documents and Correspondence of Theodore Marburg, edited by John H. Letane. (New York: The Macmillan Company, 1932, 2 vol. pp. vii, 886.)

Although the idea of organizing modern states into a league of nations is an old one, it was not until the period of the World War that it came to be widely discussed, either among the populace at large or in official circles. On January 25, 1915, a group of Americans, which included historians, political scientists, and men of affairs, met to discuss the possibility of forming a league of peace. Later meetings followed, a permanent organization was effected, and a program was launched which led to contacts with government officials and the leaders of thought, both at home and abroad.

Theodore Marburg was one of the leading spirits in this group of Americans. His diplomatic experience, acquired as Minister to Belgium under President Taft's administration, fitted him for the chairmanship of the Committee on Foreign Organization established by this group, which came to be known as the League to Enforce Peace. Acting in this capacity, Mr. Marburg carried on voluminous correspondence with a long list of individuals. His acquaintance with eminent foreigners, such as Lord Bryce, enabled him to keep in close communication with leagues of peace in European countries.

These two volumes contain Marburg's correspondence from August 10, 1914, to December 31, 1923. The latter half of volume II includes miscellaneous projects, summaries of meetings, and speeches. They constitute a valuable collection which should prove to be useful to those interested in the historical background of the League of Nations. In them, one may find able discussions of many problems of international organization and procedure, including membership in the proposed league, sanctions, compulsory jurisdiction, disarmament, and the international administration of territory. It is possible to discern from the correspondence not only the opinions of eminent men, such as President Wilson, Senator Lodge, Ex-President Taft, Viscount Grey, Lord Balfour, Foreign Minister Briand and many others, but also the manner in which the opinions of individuals influenced those of others or contributed to the ultimate achievement. That the leaders of the movement were realists may be seen from their early doubts as to the manner in which the United States Senate would react to a project for a league of nations.

The letters provide valuable materials for studies relating to public opinion. This is particularly true of the correspondence conducted during the first two years of the war, when the major effort was to transform the idea of a league of peace from an uncertain and intangible ideal into something real and vital in the minds of thinking people. What discussion of machinery there was, during this period, centered ultimately about the attitude of the

public. For instance, it was made clear that the names of organs and tribunals must not be offensive to those whose support for the project would be needed. During the latter period of the war the emphasis appears to have shifted somewhat to more of a complicated treatment of problems of organization. After 1919, the contents of the correspondence had to do mainly with the meaning of the present Covenant and the attitude of the United States toward it.

It is the nature of such a compilation that the reader is obliged to read much in the way of extraneous material in the process of finding pertinent discussions. Letters are often digressive. Marburg's correspondence did not always have a bearing upon the idea of a league of nations. There are frequent allusions to other subjects, especially to questions of right and wrong among the belligerents and to purely routine matters regarding the League to enforce peace. An excellent index, however, makes it quite possible for the reader to find references to special subjects without much inconvenience.

The University of Nebraska.

NORMAN L. HILL.

Beck, James M., *Our Wonderland of Bureaucracy*. (New York: The Macmillan Company, 1932, pp. 272.)

Representative James M. Beck occupies a unique though unpopular position in American politics. Were it not for him we might never learn the exact degree of our divergence from the divine principles of the Constitution of 1789. For the last several years, he has been shedding crocodile tears because of our deviation from the instructions and admonitions laid down in Washington's Farewell Address. A few years ago Mr. Beck discovered that the American states were no longer "sovereign." In this, his latest Ciceronian effusion, he recalls some of the more apparent ubiquitous and unhalloved evidences of Federal encroachment. However, his real *pièce de résistance* is the national bureaucracy. It is the *bête noire* of our gradual governmental and political degradation. He attributes to it many different characters: sometimes it is a submerged ice floe that lies in wait for ocean liners; at other times it is a "green bay tree" or, to change the figure, an octopus; finally, it may arrogate the personalities of mythological characters and pose as a colossus or as an old man of the sea. A very chameleonic phenomenon, this federal bureaucracy! The wonder is that it has not become a Frankensteinian monster! Mr. Beck discovered that the national public service rolls have increased at a greater rate than the population. Immediately, he writes a book and demands of the country what disposition shall be made of this gross insult to the intelligence of the Fathers of the Constitution.

At the outset, it must be admitted that Mr. Beck has just grounds for many of his objections and that he argues his case in unflagging good humor. Why should the Department of Agriculture spend time and the taxpayers' money to write and disseminate pamphlets or heavier tomes on the subject of how many buttons a two-year-old boy's pants should have and of how long window curtains should be in dining rooms, kitchens and baths. For long, we have known that government departments have maintained propaganda services with the intent and purpose of protecting themselves on the

matter of appropriations. Undoubtedly, Congress should periodically make reappraisals of the government administrative services.

The contry is very fortunate in having an analyst like Mr. Beck to point out our drift to socialism. We shall admit, *arguendo*, that socialism is preposterous, blind, potentially destructive of all the sacerdotal principles of the United States. We shall even admit that the government's wholesale commandeering of factories and other forms of property during the war was socialistic in its intentions. But, we cannot admit that the Farm Board debacle was socialistic as he maintains (p. 139). On the other hand, the attempt to erase the surplus in wheat and cotton was purely a capitalist venture and not dissimilar to the unnumbered attempts of dreamers and hardheaded business men to corner wheat, silver, or other markets in times gone by. The Farm Board sought to do for the agricultural industries the same thing that the protective tariff does for the manufacturing industries. Would Mr. Beck call the protective tariff a socialist instrument, because it implies paternalism? If so, the socialist parties in this and other countries ought to be forcibly dissolved for having paraded under false colors.

There are many others of Mr. Beck's views that the reviewer cannot accept, such as his proposal to abolish the Interstate Commerce Commission and create in its place a commerce court "composed of men learned in the law" (p. 160). This proposal places great faith in lawyers and courts, but, then, Mr. Beck is one of the leading lawyers of this country. And if it came to a question of whether we ought to reduce or augment the influence of lawyers in national administration, I would unhesitatingly vote for reduction, for in no country more than in the United States have lawyers succeeded so well in impeding and obstructing the natural development upon social and economic lines.

Mr. Beck's criticisms are never dull, for with the traditional view of the rugged individualists he looks with some scorn upon the upstart reformists. Many contemporary liberals might write volumes in criticising the criticisms of Mr. Beck, but after it were done it would amount merely to the Twentieth disagreeing with the Eighteenth century on political ideals and methodology.

CORTEZ A. M. EWING.

The University of Oklahoma.

Tansill, Charles Callan, *The Purchase of the Danish West Indies*. (Baltimore: The Johns Hopkins Press, 1932, pp. xiii, 548.)

Why did the United States Senate refuse to give consent to ratification of Seward's Danish West India Purchase Treaty of 1867? Why did the Upper House (the Landsting) of the Danish Parliament refuse to ratify John Hay's treaty of 1902? And why, finally, was the purchase eventually consummated by Robert Lansing in 1916, but at a stipulation of \$20,000,000 in excess of the prior agreed figure? The answers to these questions constitute instructive lessons on how treaty negotiations should not be conducted.

Secretary Seward, ardent expansionist and visionary statesman, realized the strategic importance of the Danish West Indies to the United States. Consequently he induced Denmark to negotiate and ratify a treaty of cession. The Danish government, relying on the good faith of the United States pledged by Seward, went so far as to hold a plebiscite in the Islands,

which resulted almost unanimously in favor of the sale. Seward, however, failed to take the Senate into consideration—an unfortunate oversight. Because of his desertion to the Johnson cabinet Seward was anathema to his old party affiliates, and consequently they would have nothing to do with him or his works. Moreover, not being endowed with the Secretary's foresight, the Senators saw no value in the Islands. The treaty was foredoomed to failure from the beginning. Seward should have known this, and spared Denmark the embarrassment of a rejection. Dr. Tansill, ardent admirer of Seward as a far-sighted statesman, fails to present fairly the Senatorial side of the argument. The Senate, as a coördinate branch of the treaty-making power is entitled to fair consideration by the Executive. The President has no right, moral or legal, to force a treaty on an unwilling Senate. The unwise tactics of Seward made for protracted negotiations, at one time tainted with fraud, which resulted eventually in excessive cost to the United States.

Denmark resented keenly the "breach of faith" on the part of the United States, and fearing another "let down" was unwilling to renegotiate a sale. But, since the Islands were a heavy burden on the Danish Treasury, the Premier was willing that a cashiered officer, Captain Walter von Christmas Dirckinch-Holmfeld should (for 10 per cent commission on the sale price) act as "contact man" to inform President McKinley and Secretary Hay that Denmark was willing to sell. Captain Christmas, an adventurer, completely "took in" high Danish and American officials. When he was dropped from the negotiations, a scandal broke. High lights were: the assertion of Mr. H. H. Rogers of Standard Oil, who wished a "cut-in" on the commission, that he controlled twenty-six Senators, and Captain Christmas' statement that Senator Lodge was one of the few legislators who could not be bribed. The Captain was denounced as a liar, but the whole affair left an unsavory taste. This episode is a fine illustration of the dangers latent in the conduct of negotiations outside of regular diplomatic channels.

Although Hay's treaty was approved by the Senate, the Landsting rejected it because of the taint of corruption, the desire to retaliate for the "insult" of 1867, and most particularly, because of Conservative opposition to territorial cession since it involved loss of prestige.

Dr. Tansill refutes the oft-voiced charge that Germany was responsible for the Danish rejection of the treaty. Yet Germany was indirectly responsible for the eventual purchase in 1916. A fear that Germany might absorb Denmark, and her West India Islands, was the dominant factor which impelled Robert Lansing to bring "friendly pressure" on Denmark to part with the Islands. Money being no consideration, opposition in Denmark was beaten down by a "dazzling" offer—\$25,000,000.

The author's assertion that President Wilson was, during the period of our neutrality, pro-British and anti-German, is open to question. Certainly he was not pro-British to the satisfaction of Walter Hines Page. Incidentally, Dr. Tansill does not refer in his notes to the *Letters of Ambassador Page*. President Wilson was only *pro-American*, and sincerely desirous of keeping the United States out of the War. There is detected here, coupled with the author's refutation of charges of German responsibility for the defeat of the Treaty of 1902, a certain endeavor to whitewash Germany.

Notwithstanding Dr. Tansill's failure to assess Mr. Seward with his proper share of responsibility, and his questionable interpretation of President Wilson's neutral attitude, this is a work of exemplary scholarship. Although tediously detailed in spots, this study is necessarily so in order to illustrate the ramifications of one of the most interesting negotiations in the history of American diplomacy.

J. LLOYD MECHAM.

The University of Texas.

Rippy, J. Fred, *Historical Evolution of Hispanic America*. (New York: F. S. Crofts and Co., 1932, pp. xvii, 580.)

As the comparatively new art of writing textbooks on Latin-American history develops, there appears a marked tendency to adopt unique and original methods of treatment and viewpoint. The recent publications of Drs. A. Curtis Wilgus and Mary W. Williams are cases in point, but as adventures into new fields they are timid and conservative indeed when compared with Dr. J. Fred Rippy. This most recent textbook on Latin-American history is so different from its predecessors that there is hardly any basis for comparison. What had previously been regarded as basic and essential facts in the history of Hispanic America, Dr. Rippy ignores; and he devotes whole chapters to subjects which other writers never regarded as being pertinent to a historical summary. Perhaps the most characteristic feature of this book is the novel plan of summarizing, in cross-cut fashion, the internal histories of the various countries during the so-called "National Period." Instead of each nation being accorded separate treatment in individual chapters, their histories have been grouped under the following headings: Political Apprenticeship, The Age of the Dictators, The Rise of the A. B. C. States, A Brief Epoch of Prosperity and Reform, and Depression and Revolt. The obvious endeavor is to avoid the customary repetitious and dull recital of political events, largely revolutionary, in the individual countries. Any scheme which aims to minimize this major deficiency of the "orthodox treatment" should have merit; yet, the least that can be said for the present work is that, although meritorious in conception, it is sadly deficient in execution. Unless handled with consummate skill, a "cross-cut treatment" of Latin-American history becomes a confusing, disassociated, hodge-podge of facts and attempted interpretations. Dr. Rippy's treatment lacks the necessary master's touch.

Another feature of Dr. Rippy's new book is the reduction of detail and factual information, particularly in the Colonial and National sections, to a minimum. His aim, very evidently, is that the student should acquire a fair appreciation of the subject in the large. This object is meritorious, for there is always present in the study of Latin-American history the serious danger of killing interest with a minutiae of detail. Yet there is a limit to everything, and the least that can be said of the present work is that it represents a *reductio ad absurdum*.

In pursuance of the author's well-known practice of reproducing his own published studies, very often with little or no change in phraseology, we encounter little in the section devoted to International Relations (ten chapters—the work contains twenty-five chapters and no bibliography save a very inadequate "Reading List") which did not appear in his *Latin-America and*

World Politics. This book will not contribute to the refutation of charges that American scholarship in the field of Latin-American history is deficient.

CARLOS A. CASTAÑEDA.

The University of Texas.

Whitbeck, Ray H., and Thomas, Olive J., *The Geographic Factor*. (New York: The Century Company, 1932, pp. xv, 422.)

Time was, and not so long ago, when geography meant the study of the earth in a literal sense. The textbooks of a generation ago gravely discussed climate and topography, flora and fauna, with some slight reference to political boundaries and capital cities. Pupils learned the names and locations of the earth's features—rivers, lakes, bays, islands, mountains, continents, and oceans. They identified capitals and bounded states. Geography was then a pure science, in the sense that it showed little concern for human values.

But the work of the great geographers, beginning with Ritter and Ratzel, has radically changed the early conception of the subject. Students of geography have become interested in the relationships existing between the earth and man. Climate, soil, and mineral resources are studied in the light of their effects upon the number and distribution of men upon the land. The conditioning effect of these factors is found to extend even to occupational activities and the forms of social organization. So far has the emphasis shifted that geography has become a social, rather than a natural, science.

For some years following the general acceptance of the idea that the natural environment significantly affects human behavior there was a tendency to exaggerate its influences. A species of determinism arose, perhaps best exemplified by the works of Ellsworth Huntington, setting forth the theory that geographic factors explain in minutest detail everything from race to religion. From this extreme there has been a return to a position with more modest claims. *The Geographic Factor*, by Whitbeck and Thomas, furnishes an example of the most recent stand taken by geographers. In this book the natural environment is seen as permissive rather than mandatory. This does not mean that it is of minor importance. On the contrary, as the authors ably demonstrate, the limitations imposed by nature upon the activities of man are so various and persistent that the behavior of men is shaped continually to meet the requirements. But nature does not insist upon any particular kind of adaptation. As indicated by the many biological forms, a wide choice is available. Man has succeeded well, because his adaptive device, culture, is more flexible than the devices of other organisms.

The book presents each aspect of the environment in connection with the cultural adjustments made under its influence. The range of the treatment may be indicated by selected chapter headings, as follows: "Climate and its Economic Relationships," "The Importance of Geographical Location with Special Reference to Cities," "The Revolutionizing Influence of Coal," "The International Importance of the Location of Petroleum Fields," "Environment, Racial Character, and Religious Beliefs," "Geographical Influences in the Forming of American National Character." Of especial interest is the

discussion of the results of the distribution of coal, iron, and oil, to the use of which men have only recently adapted themselves. We see here the close dependence of nations upon the location of the supplies of these three great resources. We see the struggles of national groups as attempts to adjust themselves to the restrictions of the environment, attempts that must almost surely fail because of the rapidity and unpredictability of cultural changes.

CARL M. ROSENQUIST.

The University of Texas.

MacLeod, William Christie, *The Origin and History of Politics*. (New York: John Wiley and Sons; London: Chapman and Hall, 1931, pp. xv, 504.)

A text on the history of politics, which this work is intended to be, should summarize the best knowledge which scholars have gained by approaching the subject from various points of view. The introductory statements of the author hold out hope of such treatment, and his preliminary definitions show a reasonably sound understanding of the "social process" by which human institutions have been and are being made.

The discussions of the theories of the origin of the state seem rather too lengthy for a text, and the insertion of special studies by the author, who is much interested in this particular problem, raise doubts about "the perspective" which the student is to obtain. And the doubts come faster when the theories about beginnings are concluded and the author gets down to history where he can find solid ground to stand on occasionally, at least. Unfortunately, he has a theory which the historical material which he uses must serve. He searches out the similarities in the patterns of states which men have used. These patterns, considered only in their broadest outlines, are few. They have been transferred through time and space, from people to people, and from race to race. Fascinated by the similarities which he finds, the author rushes back and forth through history, to find the connections. The reappearance of a pattern indicates that it has been handed down through the ages, and although historians have not yet found the trail, the author, guided by his confidence in the idea that all similarities indicate borrowing or transference, will show them the way. The similarities in western and Japanese feudalism, to give an astonishing example, presuppose a common origin, and it may be found in the contracts used in ancient Sumeria 3000 years B.C. (pp. 200-201.) Historians have searched and pondered much about the beginnings of representative government. They should find the connection with the "federal democracies of the early Mediterranean" (p. 391). Nevertheless, like Mr. H. G. Wells, the author believes that the Romans might have saved their empire (and antique culture, too, no doubt) by inventing representative government (p. 381).

Every historian who has tried to understand how institutions have been made knows how difficult it is to be sure that they have been transferred from one state to another. And even when they have been borrowed by kings, legislators, or constitution makers, how different they become in their new homes, and how various are the ways in which they work. To know the framework or patterns is only the beginning of political understanding.

The differences are always more numerous and more significant than the similarities. The analysis of state and governmental patterns is not the history of politics.

F. DUNCALF.

The University of Texas.

Thomas, Norman, and Blanshard, Paul, *What's the Matter With New York?* (New York: The Macmillan Company, 1932, pp. xiv, 364.)

To the lay citizen who seeks to understand by reading something of the chief trends in American public life, it must seem a hopeless task to select from the thousands of titles announced annually the relatively few which he can afford to read and which will prove most worth his while. He cannot, certainly, ignore the various phases of the municipal scene, nor will his curiosity permit him to pass over the aspect of that scene which we may label, for the sake of convenience, "metropolitan politics." When the citizen has come to the realm of metropolitan politics, he will do well to investigate a new book bearing the arresting if somewhat unattractive title, *What's the Matter With New York?*

The book is, briefly, a sort of chronicle of recent political events in New York City, with particular emphasis on the last two years. It might as accurately be characterized as a chronicle of recent political scandals in New York City, except that Messrs. Thomas and Blanshard probably would object to the attempt to differentiate scandals from events. At any rate, the authors discuss such items as the "Tin Box Brigade," gang control of elections, the prostitution of the courts and the law, His Honor the (recent) Mayor, "Fearless Frank" Roosevelt (Heywood Broun's mode of reference to the President-elect), and Tammany Hall, the land condemnation racket, the bus franchise scandals, and numerous like morsels of shady and semi-shady politics. Their book, therefore, is of first-rate interest and importance as a summary of the unsavory situation revealed by the SeaBury investigation as currently existent in The Metropolis.

The work, however, addresses itself to the question, *What's the Matter With New York?*, and although most of the argument contents itself with the marshalling of evidence to prove that there is something radically wrong, the authors eventually come to their joint conclusion. In brief, they find underlying the whole situation the "dying economic order" of capitalism; and the book turns out to be, as one realizes early it will be, another argument for socialism. Suggested stop-gaps this side of socialism are the city manager plan, in which little faith is placed, and proportional representation, which is regarded as a step in the right direction. Messrs. Thomas and Blanshard have written well, and with understanding and honesty of purpose, and, truth to tell, have subordinated their predilection for socialism to their desire to clarify the New York political scene. Not least among the interesting features of the book is an appendix entitled "A Calendar of Scandals During the Walker Administration."

ROSCOE C. MARTIN.

The University of Texas.

Giddings, Franklin Henry, *Civilization and Society*. Howard W. Odum, editor. (New York: Henry Holt and Company, 1932, pp. x, 412.)

The volume under review consists of a series of lectures delivered by Professor Giddings to his classes in Columbia University. The lectures have been abridged, arranged, and edited for publication by Professor Howard W. Odum. Intended for the purpose of teaching elementary sociology, the book is written in easy, chatty, informal style, free from complexities and profundities. Apparently the author's chief aim has been to arouse interest in the subject. He carefully avoids systematic classifications, tables, and figures. There are few definitions, almost no theory. On the other hand, the text is replete with keen observations and apt illustrations, the choice selections of a lifetime of wide experience. In pursuance of his idea that the province of sociology embraces all social activity, Professor Giddings has taken his material from every time and place. Archaeology, history, anthropology, economics, psychology, and political science, all have gone into the making of this book. The reader is given a sweeping view of the vast panorama of social life upon the earth.

The author's personal reactions to the ways of the world intrude from time to time, lending a didactic quality to the lectures, which lifts them above the matter-of-fact business of imparting information and gives them the charm of conversation. The reader learns what Professor Giddings thinks of capital and labor, aristocracy and democracy. He receives advice on how to be happy; he discovers the author's ideas of what constitutes the proper objective of education. In short, he is presented incidentally with a philosophy of life.

It may be contended by those who would keep their science "pure" that a large part of all this is anything but sociology and that the effect of its publication can be nothing less than to render still more plausible the widespread belief that sociology is only a hodge-podge anyway. To the first part of this contention Professor Giddings would doubtless agree at once. As for the second part, he would probably say that he has assumed the members of his audience to possess a certain minimum of discriminatory power, enough at least to enable them to distinguish between the author's statements of what is from what he thinks ought to be. He would assume furthermore that his hearers realize that the statements of fact are not to be regarded as "proved" by the examples which illustrate them. Possibly these assumptions are not justified. If so, it must be admitted that *Civilization and Society* may give the wrong impression. In the hands of the discerning reader, however, the book can not fail to prove both interesting and instructive.

CARL M. ROSENQUIST.

The University of Texas.

Chase, Stuart, *A New Deal*. (New York: The Macmillan Company, 1932, pp. 257.)

Stuart Chase has become one of the outstanding prophets of a new social and economic order. More than that, he has, by the brilliance of his writing, lifted the dismal science from its traditional ponderosity. A casual reader may well feel no qualms as to reputation if discovered in the act of reading

one of Chase's exhilarating analyses of present-day United States. Moreover, he is no mere popularizer. He moves about the workshop of classical economic theory as one who knows the exact location of every jack-saw and gadget. It is not a mere familiarity that breeds his contempt for that store-room; he has long since demanded abandonment of the whole structure. He would replace it with the typical European collectivist model, and without further ado.

To the author, capitalism as practiced here and now is obsolete. In his spirited development of that thesis, he exhibits the distinguishing verve of the crusader, the finality of the Scotch Covenanter, and the abiding faith of the mediaeval scholastic, though he is ready to admit that facts and conditions may render obsolescent any economic theory. And the mere fact that capitalism has served the western world with general approbation is, to him, no compelling argument for its retention. Like an outmoded machine or a worn-out fabric, an economic system should be discarded whenever its period of usefulness is ended.

Throughout the book, the author displays a persistent impatience with the wastage, extravagance and chaos of the existing capitalism. A governor is needed for the whole mechanism. It is running away, and pell-mell. His is an insistent demand for a planned economy, one not greatly different from the Soviet Five Year Plan, one that will husband and protect the wealth of the United States. He would escape from the periodicity of business depression. With Hobson and many others, he subscribes to the theory that overproduction results from too much saving; and he deprecates the system that permits those who save to invest in productive enterprises for which the country has no real need. The shibboleths of the Manchesterians are mouthings of nonsense. The building of a new shoe factory merely means, ultimately, the bankruptcy of shoe factories already in operation, which result is, he maintains, extremely expensive to society. The money so wasted might well be expended for unemployment insurance and the purchasing power of the country would thereby be increased.

There is not a single dull page in the entire book.

CORTEZ A. M. EWING.

The University of Oklahoma.

Gordon, Leland James, *American Relations with Turkey, 1830-1930*. (Philadelphia: University of Pennsylvania Press, 1932, pp. xv, 402.)

In spite of its title this volume is primarily a study of the economic relations between the United States and Turkey. Commerce, capital investment, and emigration of peoples are considered as fundamental, and political problems as merely incidental. No quarrel may be had with such a point of view. What is needed is an accurate study of the real bases of international relations: to call some economic or social and others political is merely to play upon words; for one wonders if "political" does not connote the others.

At any rate the author has made a painstaking effort to examine all pertinent source material and then to present a careful analysis of the economic and other relations between the two states. He begins with a cursory survey of the background and of the important public relations.

Next, he analyzes the problems arising from trade relations, such items of trade, tariff policies, shipping, and treaty relations. Then follow three chapters devoted to American "good will" and commercial capital investment in Turkey, three chapters on emigration of Turks and of Turkish minorities to the United States, and a final chapter presenting a summary and conclusions drawn from the previous eighteen chapters.

The author is to be commended for the organization of his material, for the use of adequate tables, and for ending each chapter, as well as the book itself, with a clear, concise summary and conclusion. Also of value is his transcription of names into the new alphabet. The appendix contains the *modus vivendi* of 1927, the treaty of 1929, a chronology of Turkish-American relations, a list of American diplomatic representatives to Turkey, and a selected bibliography.

Considered as a whole the volume is chiefly useful as a fairly exhaustive analysis of the factors underlying Turkish-American trade relations during the century, 1830-1930. The conclusions are that some Turkish products will continue to find a good market in the United States, that American exports to Turkey will be increasingly limited to capital as opposed to consumption goods, that American trade will profit best by having direct shipping and financial services, that the future of "good will" investment is not bright, and that our immigration laws plus the end of the capitulations should lead to a solution of the question of nationality.

CHARLES A. TIMM.

The University of Texas.

Callcott, Mary Stevenson (in collaboration with Willoughby C. Waterman), *Principles of Social Legislation*. (New York: The Macmillan Company, 1932, pp. xiv, 416.)

Within the scope of one small volume this writer has attempted to summarize the principles and something of the history of social legislation. Such an aim, of course, gives a writer his choice of alternatives; he can carefully select what seems to be the important phases of the subject and give them adequate treatment, or he can give slight attention to all portions of the subject which seem to be worthy of any consideration. This author has chosen the second method.

While the book loses some of the definiteness and clearness of detail that are essential to a thorough understanding of any subject, it gains in giving the reader a comprehensive picture of the breadth and varied ramifications of the field. Chapters are devoted to such matters as "Relief of Poverty," "Child Welfare and Mothers' Pensions," "Housing and City Planning," "Public Health and Sanitation," "Public Education and Public Recreation," "Regulation of Public Morals," "Labor Legislation," "Social Insurance," and "Humane Legislation," while such wide subjects as criminology and penology are discussed more or less incidentally.

Perhaps the consistent point of view from which the book is written gives it much of its value. The author has shown how the changes in this nation which have accompanied our progress from a colonial frontier region to a highly industrialized society have increasingly made the old doctrines of *laissez faire* and individualism more and more untenable and have forced

us into social control by legislation whether our political philosophy sanctioned such action or not. By inference, if not by direct statement, she makes it apparent that this tendency will continue and will grow stronger.

There is an excellent index, and each chapter is followed by a brief, suggestive bibliography.

HARRY E. MOORE.

The University of Texas.

Rossman, Joseph, *The Psychology of the Inventor*. (Washington: Inventors Publishing Company, 1931, pp. x, 252.)

The author presents a non-technical and intensive study of the psychology of the inventor, particularly in reference to the process of invention. A careful analysis of the replies of 710 inventors reduces the procedure in inventing to the following distinct steps: observation of a need or difficulty; analysis of the need; a survey of all available information; a formulation of all objective solutions; a critical analysis of these solutions for their advantages and disadvantages; the birth of the new idea, the invention; and experimentation to test out the most promising solution, and the selection and perfection of the final embodiment by some or all of the previous steps. The essential feature of invention, according to the author, is a mental trial and error process produced under emotional conditions caused by an unsatisfied desire or need; and this results in an adequate act of behavior which satisfies the need. The inventor is thus characterized by an innovating attitude toward his environment. When the same obstacles are presented to different people they will ultimately find a similar solution of the difficulty—a fact which explains so-called “multiple invention.” Two important conditions must be satisfied before any invention can be made after a need for it has been recognized: first, the necessary technical development to supply all the necessary elements for the invention; and second, the inventor to make the invention from the known existing elements.

Economic and geographic conditions and social ideas, he concludes, may be the chief cause for the decided differences in the geographic distribution of inventiveness rather than any innate hereditary abilities. From the psychological standpoint the love of inventing is the most powerful motive of inventors. The reader wishes that, in the light of this fact and other psychological aspects of invention, the author had appraised our patent laws as a cause of invention.

FLOYD L. VAUGHAN.

The University of Oklahoma.

BOOK NOTES

Harry L. Kingman, in his *Effects of Chinese Nationalism Upon Manchurian Railway Developments, 1925-1931* (Berkeley: University of California Press, 1932, pp. xxii, 97, University of California Publications in International Relations, Volume 3, No. 1), describes lucidly how railway developments in Manchuria resolved into the existing crisis. Awakened in 1925 to a new national self-consciousness, the Chinese found Japan preëminent in South Manchuria, and Soviet Russia supreme in the north of that vast and rich province, both by virtue of dominant positions in their respective railway zones, the South Manchurian and the Chinese Eastern. The determination

of the Chinese nationalists to realize the full sovereignty of their country found expression in attacks upon the railway rights of Japan and Russia. The drive against the Japanese was marked by: the construction of a new, competing, all-Chinese railway system with a Chinese harbor as its terminus; the resisting of Japanese attempts to lease lands; raising questions about the foreign railway policing and the employment of "patriotic demonstrations, boycotts, and varied non-coöperative activities to further the campaign for the establishment of Chinese supremacy in South Manchuria." "But the total effect of all its [Chinese] activity, ironically enough, was to create a situation in which the Japanese military leaders were able to find a sufficient pretext to the intervention which began in September, 1931. . ." A drive was also initiated in 1925 against Soviet Russia. For four years the Chinese boldly flouted Russian rights in North Manchuria and eventually seized the Chinese Eastern Railway. This act forced the employment of military pressure by Russia which resulted in the restoration of Russian mastery over the Chinese Eastern Railway. Despite the disheartening set-backs Chinese nationalism has received in Manchuria, the author predicts the eventual triumph of the nationalistic program.

J. L. M.

A clear, impartial, well-written exposition of Japan's economic problems is presented in Harold G. Moulton's *Japan, an Economic and Financial Appraisal* (Washington: The Brookings Institution, 1931, pp. xix, 645). The author's collaborator was Junichi Ko, an official of the Bank of Japan. In the course of four parts divided into twenty-five chapters, the author gives first, a brief survey of Japan's history, government, and geography; next, a summary of its economic development; third, an analysis of the political, social, and economic effects of industrialization; and, lastly, a statement of present-day problems and policies. In addition to the index there are valuable appendices containing an analysis of the international debt and investment position of Japan, and a wealth of statistical tables. The book was published before the recent tragic events in China, but no one can gain a proper perspective of the Sino-Japanese imbroglio without knowledge of the material presented in this volume. It is the author's gloomy conclusion that "unless the rate of population growth is restricted, and restricted soon, the social outlook for Japan will present itself in somber colors." Japan's militarists have sought a different solution, but no amount of aggression upon a helpless China can obviate the hard facts, ably presented, and fully buttressed by statistical data, found in this book.

C. T.

In 1925 the Rt. Hon. J. W. Hills, who was financial Secretary to the Treasury in Stanley Baldwin's first Government, published a volume under the title *The Finance of Government*. In 1932 the author revised and enlarged the original work, with the assistance of Mr. E. A. Fellowes, and the volume presently under consideration is the result of their joint labors. [Hills, J. W., and Fellowes, E. A., *British Government Finance*. (New York: Columbia University Press, 1932, pp. 218).] The book is divided into three parts. Part I deals, at the length of eight chapters which fill 130 pages,

with revenue and administration; Part II, including a single chapter, pertains to the currency; and Part III, comprising four chapters, has to do with the British public debt. The authors make no claim to exhaustiveness for their work, which indeed may fall under the ban of scholastics as being superficial. But if the book was not composed with great labor, it is not read with great fatigue; and if it does not go to the bottom of any of the innumerable problems which beset the student of British public finance, it treats comprehendingly of the larger phases of many of those problems. In sum, Messrs. Hills and Fellowes have addressed themselves to the task, not of compiling an encyclopedia of public finance, but of drafting a handbook of British finance in non-technical language; and they have achieved their purpose in a well-written and understanding book whose value will be generally recognized by those interested in comparative administration.

R. C. M.

Heller Committee for Research in Social Economics, Cost of Living Studies III: The Food of Twelve Families of the Professional Classes, by Mary Gorringer Luck and Sybil Woodruff (University of California Press, Berkeley) is another of the standard of living studies which are appearing under the auspices of the Heller Committee for Research in Social Economics. The study is based upon complete records of actual purchases of food kept by housewives of twelve professional families for an average period of five months. Analysis of expenditures is made by distribution per capita and amounts spent for specified items of food. The food bought is analyzed as to kind, quality, and nutritive value. Comparisons are made of the findings of four other well-known standard of living studies with the results of the present investigation. The average percentage distribution of the Berkeley families is measured with the Jaffa, Morgan, and Sherman standard food budgets. The unit used in determining the nutritive content of the diets considered is Hawley's equivalent adult male scale. The most impressive features of the report are its thorough workmanlike quality and the broad knowledge of the field of standard of living studies. The apparent limitations are the small number of budgets included and the absence of children in the families covered making the findings applicable to adults only.

R. A. A.

An excellent short survey of the economic problems confronting modern China is made by J. B. Condliffe in *China Today: Economic* (Boston: World Peace Foundation, 1932, pp. 214). The author discusses such topics as agricultural resources and organization, towns and urban industry, public finances, banking and currency, and foreign trade. Throughout the book he maintains a commendable balance in his treatment of matters over which there are conflicts of data and opinion. He stresses the inevitability of decentralization and federalism but believes that the rapidly developing national consciousness, aided by a better system of communication, will tend to provide, in time, the political and economic requisites for the improvement of the people's livelihood. The appendix contains eleven useful tables presenting data on some of the topics.

C. T.

In view of the condition of the national budget and the debates on public finance, nothing could be more timely than Professor Alfred G. Buehler's *General Sales Taxation: Its History and Development* (New York: The Business Bourse, 1932, pp. xii, 378). The author has made a most exhaustive compilation of material gathered from every conceivable corner of the world where something resembling a general sales tax has been in use. But it is difficult not to lose oneself in the mass of administrative detail included. If the work were as notable for synthesis and evaluation as it is for the completeness of its data it would be wholly admirable. But the author seems to vacillate between a desire to advocate the sales tax on the basis of expediency and a reluctant acknowledgment of its inequitable burden. When it comes to findings, therefore, the author is inconclusive and unsatisfactory, but he does put before the reader a wealth of information on which the latter can make up his own mind.

J. H. L.

According to Thomas Nixon Carver in his new edition of *Principles of Rural Economics* (New York: Ginn and Company, 1932, pp. xxiv, 401), the rural problem appears to be the same in 1932 as it was in 1911 when his first edition was published. Wages are still high while land is cheap, making it easy for farm laborers to save money enough to buy a farm. Every thrifty farm hand can reasonably expect to become a farm-owner, although tenancy in the United States has increased from 37 per cent in 1910 to almost 40, in 1930. Although over 7,000,000 horses and mules have been displaced by machines since 1919-1920, he still maintains that mechanical power has not displaced animal power and is not likely to do so in the future. A few pages have been added here and there at the end of some chapters and the bibliography has been brought up to date, but the book can scarcely be said to be the purported "strictly up-to-date treatment of rural economics."

H. M. P.

The third volume of *Documents on International Affairs* (London: Oxford University Press, 1931, pp. xii, 264), compiled by John W. Wheeler-Bennett for the Royal Institute of International Affairs, serves not only as an admirable supplement to Professor Toynbee's annual *Survey of International Affairs* but also as a convenient and reliable documentary source book for all students of current international relations. The selections include material on general international problems as the League, and on each of the several world areas—Europe, America, Asia, and Africa. The appendix contains a chronology of treaties. The compiler is to be congratulated upon the skill and perspective evidenced in choosing a few dozen items of permanent value out of the enormous mass of material brought forth each year on the vast stage of international relations.

C. T.

Fundamentals of Social Psychology, by Emory S. Bogardus (New York: The Century Company, 1932, pp. xx, 444.) is a second edition of a work in this field which has already won wide recognition. In the revised edition the author takes into account the developments in this field since the first

edition was published in 1924, giving particular attention to the newer implications of Behaviorism, the position of the Gestalt psychologists, the recent works of cultural anthropology and the life history method of studying social problems. His fundamental position remains what it was; and those who liked his first edition will probably like the newer one as well.

H. E. M.

French Political Thought in the Nineteenth Century (New Haven: Yale University Press, 1931, pp. xxxi, 500), by Roger Soltau is a survey of important phases of French political thought from the end of the Napoleonic era to the outbreak of the Great War. The interplay of monarchism, democracy, and sociitarian thought, and the problem of the relationship of church and state are emphasized. The book purposely avoids consideration of any departures in thought since the War. On the whole, the period of French political thought under consideration suffers by comparison with the previous century, even though several outstanding political thinkers emerged and much important political speculation and experimentation developed. The writer's treatment is excellent and his work fills a place of its own as a commentary on the political thought of the time covered.

O. D. W.

The Negro in American National Politics (Boston: The Stratford Company, 1931, pp. 148) by William F. Nowlin is a brief study of the part played by negroes in American national administration and politics since 1868. The first two chapters deal with the negroes who have served in Congress, their preparation, and what they have attempted to accomplish. Two other chapters tell something of the history of negro representation in the Republican National conventions and negro activities in national campaigns. A summary of the negro's share in the Federal patronage and a statement of his aspirations in politics conclude the book.

O. D. W.

A second edition of Professor Harold R. Bruce's *American Parties and Politics* (New York: Henry Holt and Company, 1932, pp. vii, 589), originally published in 1927, has made its appearance. The plan of the book has not been materially changed, but much new material has been introduced.

O. D. W.

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